

1 MS. CLEMENT: Yes.

2 THE COURT: And what are those two exhibits?

3 MS. CLEMENT: 5008, 5014.

4 THE COURT: Hold on.

5 (Pause.)

6 THE COURT: 5014?

7 MS. CLEMENT: Yes.

8 THE COURT: Okay.

9 MS. CLEMENT: And 5008.

10 THE COURT: You said that already. You said two and  
11 then you read three off.

12 MS. CLEMENT: Oh, I apologize, your Honor.

13 THE COURT: How many are agreed?

14 MS. CLEMENT: (Indicating.)

15 THE COURT: Two.

16 MS. CLEMENT: Two.

17 THE COURT: All right. Those two exhibits are  
18 admitted into evidence.

19 MR. REID: Yes, your Honor.

20 **(Joint Exhibit numbers 5008 and 5014 were marked for**  
21 **identification.)**

22 **(Joint Exhibit Numbers 5008 and 5014 were received**  
23 **into evidence.)**

24 THE COURT: Miss Cordova, if you would please come  
25 forward to the witness stand.

26 You can put your coat and your personal belongings  
27 over something.

28 And if you would remain standing, please, raise your

1 right hand and face the clerk.

2 THE CLERK: Do you solemnly swear the testimony you  
3 are about to give in the cause pending before this Court  
4 will be the truth, the whole truth, and nothing but the  
5 truth?

6 THE WITNESS: I do.

7 THE CLERK: You may have a seat.

8 Ma'am, can you state your name and spell it for the  
9 record.

10 THE WITNESS: Nancy Cordova, N-A-N-C-Y,  
11 C-O-R-D-O-V-A.

12 THE CLERK: Thank you.

13 THE WITNESS: You're welcome.

14 TESTIMONY OF

15 NANCY CORDOVA, a witness called pursuant to 776 of the  
16 Evidence Code by the Plaintiffs:

17 CROSS-EXAMINATION

18 BY LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of  
19 the Plaintiffs:

20 Q. Good morning, Miss Cordova.

21 A. Good morning.

22 Q. You -- you were the administrator or executive  
23 director at Emeritus Emerald Hills for a period of time?

24 A. Yes, I was.

25 Q. And you were there from June of 2007 through  
26 December 30th of 2008?

27 A. Correct.

28 Q. And that was your first official or formal job as an

1 administrator of a residential care facility for the  
2 elderly?

3 A. Correct.

4 Q. And you had recently obtained your license prior to  
5 getting that job?

6 A. Yes. "Recently" you may want to define for me.

7 Q. Okay. Well, when was it that you got your license?

8 A. I don't remember the exact date, but it was the year  
9 prior.

10 Q. Okay. And Emeritus at Emerald Hills, to your  
11 recollection that was a facility that had over 50 beds?

12 A. Correct.

13 Q. So it could house over 50 residents?

14 A. Yes.

15 Q. And the capacity was something over 100?

16 A. Yes.

17 Q. And during the time of your tenure there, the --  
18 would you say that it would be fair that the resident  
19 census was typically between 70 and 80 residents?

20 A. Yes.

21 Q. Now, I'd like to take you through the facility. We  
22 have some pictures.

23 A. Mm-hmm.

24 Q. And since you know a lot about it, I'd like to walk  
25 you through it. Okay?

26 A. Okay.

27 MS. CLEMENT: Erik.

28 Okay. Erik, could you tell us what exhibit number

1 this is?

2 MR. URIAS: I don't know.

3 MS. CLEMENT: You don't know? You know everything.

4 Excuse me, Judge. I apologize.

5 MR. REID: It starts in the two-thirties.

6 MS. CLEMENT: It's in the two-thirties. Thank you.

7 Okay. 238 through 251.

8 MS. CLEMENT: Terrance, would you mind getting the  
9 lights.

10 Q. (By MS. CLEMENT) Okay. So is this the exterior of  
11 the facility?

12 A. It is.

13 Q. Okay.

14 MS. CLEMENT: Erik, can you just walk us through  
15 these slowly.

16 Not that slowly.

17 Q. (By MS. CLEMENT) Okay. And so this is the front  
18 where the residents and families and employees would enter?

19 A. Correct.

20 Q. And Emeritus is a three-story building?

21 A. Yes.

22 Q. Okay. And if you're standing in front, in the  
23 parking lot, the view here would be on the right side?

24 A. Yes.

25 MS. CLEMENT: Okay. And next shot, please.

26 Q. (By MS. CLEMENT) And this is what you see when you  
27 first walk in, the little lobby area?

28 A. Yes.

1 Q. Okay. And this is where the concierge sits  
2 (indicating)?

3 A. Yes.

4 Q. And the concierge at one point in time, or when you  
5 worked there, was that Danielle Woodley (phonetic)?

6 A. I don't remember her last name, but her first name  
7 was Danielle.

8 Q. Okay. And right here, she had a little computer  
9 screen (indicating)?

10 A. Yes. I don't think that was there the whole time.  
11 That may have come later.

12 Q. Okay.

13 A. Okay.

14 Q. But it was during your tenure?

15 A. You know, I don't remember a computer there.

16 Q. Okay. Well, do you remember that through -- where  
17 Miss Danielle Woodley's (phonetic) seat was as a concierge,  
18 the families would walk in, or the residents would walk in,  
19 and if they were going to the memory care, they'd go to the  
20 left, and to the dining room, straight?

21 A. Yes.

22 MS. CLEMENT: Okay. Next slide, please.

23 Q. (By MS. CLEMENT) And off this way (indicating),  
24 this is the other side to the dining room and also to the  
25 kitchen?

26 A. Yes.

27 MS. CLEMENT: Next slide.

28 Q. (By MS. CLEMENT) And this is looking in the

1 activities -- or, excuse me, assisted living side  
2 (indicating)? This is their dining room (indicating)?

3 A. Yes.

4 Q. And there's a little piano there for when the  
5 activities living side may have performers or some people  
6 there doing some entertainment?

7 A. Yes.

8 Q. And then this balcony up here, this is up on the  
9 second floor?

10 A. I believe so, yes. I don't remember if there's a  
11 balcony on the third.

12 MS. CLEMENT: Okay. And the next slide, please.

13 Q. (By MS. CLEMENT) And this is the -- from the dining  
14 room, when you're looking back, there's a little fish tank  
15 there.

16 Do you remember that?

17 A. Yes.

18 Q. And then this is the little lobby or living room  
19 waiting area for the -- for the residents and guests?

20 A. Yes.

21 Q. Okay. There's a stone fireplace there?

22 A. Yes.

23 Q. Okay.

24 MS. CLEMENT: Next.

25 Q. (By MS. CLEMENT) And this is the doorway to Emerald  
26 City, the memory care neighborhood?

27 A. Yes.

28 Q. And right here on the left, this is the medication

1 room, true?

2 A. Yes. Sorry.

3 Q. And that's the one medication room for the whole  
4 facility?

5 A. Yes.

6 Q. And it's outside the Memory Care Unit?

7 A. Yes.

8 Q. And then there's a little restroom here for the  
9 employees and guests to use?

10 A. Yes.

11 Q. And these doors are to remain closed, true?

12 A. True.

13 Q. And if you're standing outside this door looking --  
14 in the hallway, can you see the residents down in the -- in  
15 the Memory Care Unit?

16 A. It depends where you're standing. But far, no.  
17 Close through the window, a little bit.

18 Q. If the residents were out in the hallway?

19 A. I'm sorry. Could you say that question again.

20 Q. Yes.

21 Could you only see the residents from this vantage  
22 point, if you were standing at the window, looking down at  
23 residents who happened to be standing in the hallway?

24 A. Yes.

25 Q. Okay. Thank you.

26 A. Mm-hmm.

27 MS. CLEMENT: Next.

28 Q. (By MS. CLEMENT) Now, this is a shot of the Memory

1 Care Unit. And this is from the end of the hallway,  
2 looking back toward the front.

3 A. Okay.

4 Q. Is that right? Does that refresh your recollection  
5 about that?

6 There's a big picture of the sailboat here on the  
7 wall, at the end of the hallway.

8 A. The decoration may have changed, but I do remember  
9 that -- the hall then kind of crooked a little bit to the  
10 left to get back to the front.

11 Q. Okay.

12 MS. CLEMENT: Next slide, please.

13 No. This is not the slide.

14 Q. (By MS. CLEMENT) Do you remember this?

15 A. Yes.

16 Q. What was this?

17 A. From what I remember, it was an activity wall for  
18 tactile, just touching, moving knobs, flipping switches.

19 Q. Okay.

20 MS. CLEMENT: Next.

21 Let me come back over here.

22 Q. (By MS. CLEMENT) Okay. Now we're going to go to  
23 Exhibit 5008, which is the floor plan of the facility.

24 A. Okay.

25 Q. So do you recognize this as the floor plan of  
26 Emerald Hills, just showing the first floor?

27 A. Yes.

28 MS. CLEMENT: Can the jurors see this? Is it big



1 enough? Okay.

2 Q. (By MS. CLEMENT) So this is what we saw on the  
3 outside (indicating).

4 This is the walkway where you would enter, true?

5 A. Yes.

6 Q. And this is the right side of the building, from  
7 the -- if you were standing in the parking lot, there's the  
8 parking spaces. And over here to the right, Rooms 122  
9 through 117 are on the right?

10 A. Yes.

11 Q. And then on the left side, past this general area  
12 (indicating), we have the Memory Care Unit on the first  
13 floor?

14 A. Yes.

15 Q. And there we can see that little crook in the  
16 hallway that you mentioned (indicating)?

17 A. Yes.

18 Q. Okay. Now, this little "LR," that was the living  
19 room area with the stone fireplace?

20 A. Yes.

21 Q. And that's where the residents and the families  
22 could visit there if they'd like?

23 A. Yes.

24 Q. It was also a waiting room for potential residents?

25 A. Yes.

26 Q. Okay. And then here's where the concierge would sit  
27 right here (indicating)?

28 A. Yes.

1 Q. And then these are offices. Which of these two  
2 offices -- or are these all three offices here  
3 (indicating)? It says -- the legend says "O" for "office."

4 A. I don't know what the -- I can't think of what that  
5 third one is. When you walk in, if you're walking in from  
6 the front entrance, the first office on the left is the  
7 executive director's office, and that's where my office  
8 was.

9 Q. So this is your office here (indicating), just to  
10 the left of the entrance?

11 A. Yes.

12 Q. Okay. And then was this the sales and marketing  
13 office (indicating)?

14 A. Yes.

15 Q. Okay. And was this -- did this become the med room  
16 (indicating)?

17 A. I believe so. I haven't seen the floor plan since  
18 that change happened. But there's no other office there  
19 otherwise.

20 Q. And right across the way was the restroom  
21 (indicating)?

22 A. Yes.

23 Q. Okay. And then this was the first big bedroom  
24 inside the Memory Care Unit (indicating)?

25 A. Yes.

26 Q. And "WC," that was the nurses office over here  
27 (indicating)?

28 A. Yes.

1 Q. And "WC" stands for "wellness centers" or  
2 "wellness" -- you don't know.

3 A. I'm sorry.

4 Q. It doesn't matter. Okay.

5 So right here where we've highlighted in green,  
6 that's -- the "EL," that's the elevator, true?

7 A. Yes.

8 Q. And there was one elevator for the entire building,  
9 correct?

10 A. Yes.

11 MS. CLEMENT: Next floor, please.

12 Q. (By MS. CLEMENT) So this is the second story of the  
13 building.

14 And do you recognize this as being the layout of the  
15 second floor of the building, which was for residents on  
16 the assisted living side?

17 A. Yes.

18 Q. And then here in the center is the elevator  
19 (indicating)?

20 A. Yes.

21 Q. And there's a little TV room on that floor?

22 A. Yes.

23 Q. Okay.

24 MS. CLEMENT: Next slide, please.

25 Q. (By MS. CLEMENT) And then here, again, we have --  
26 this is the third floor. And these are all, again, more  
27 residents' rooms on this floor, correct?

28 A. Correct.

1 Q. And on this floor, again, there's the one elevator  
2 straight in the middle, true?

3 A. True.

4 Q. And on this floor there wasn't a TV room or anything  
5 like that, so the residents would need to go down to the  
6 second floor for the TV room?

7 A. True.

8 MS. CLEMENT: Okay. Next slide. 5014.

9 Q. (By MS. CLEMENT) These are some aerial shots that  
10 the defense provided. This is from a Google Earth.

11 So do you recognize Emerald Hills here, this  
12 building (indicating)?

13 A. Yes.

14 Q. And was this what was called Sienna care at the  
15 time, the skilled nursing facility?

16 A. Yes.

17 Q. Okay. And then what road is this road right here  
18 (indicating)?

19 A. I think that's Bell.

20 Q. Okay. Bell Road?

21 A. Mm-hmm.

22 Q. In Auburn?

23 A. Yes.

24 Q. And then what road is this road coming up to get to  
25 Emerald Hills (indicating), off of Bell?

26 A. I'm sorry. I passed it so many times, but I don't  
27 remember the name.

28 Q. Okay. And then this street that Emerald Hills was

1 on (indicating)?

2 A. Education.

3 Q. Okay. Thank you.

4 MS. CLEMENT: Next slide.

5 Q. (By MS. CLEMENT) And does that look to you like the  
6 side -- or the Emerald Hills as you recalled it? This  
7 shot, the aerial shot?

8 A. Yes.

9 Q. Would you agree that Emerald Hills, the facility  
10 itself, is quite spread out?

11 A. Yes.

12 Q. It's a large building?

13 A. Yes.

14 Q. Now, you were first notified of this case when you  
15 got a subpoena for your deposition?

16 THE COURT: Do we need the lights on?

17 MS. CLEMENT: Oh, yes. Sorry. Thank you, Judge --

18 THE COURT: Okay.

19 MS. CLEMENT: -- for the reminder. Sorry.

20 Q. (By MS. CLEMENT) You were first notified about this  
21 case when you received a subpoena for your deposition; is  
22 that true?

23 A. No. Actually, I had heard through mail from an  
24 attorney -- I don't remember the attorney's office -- that  
25 was representing Emeritus, notifying me. I don't remember  
26 the content of the letter. But it was just notifying me  
27 and asked me to contact them.

28 Q. Okay. And did you do so?

1 A. No.

2 Q. Okay. And then in response to -- did you eventually  
3 get a subpoena from me a little over two years ago?

4 A. I did.

5 Q. And then through coordination with your  
6 brother-in-law, who is an attorney, who was helping you --

7 A. Yes.

8 Q. -- we scheduled your deposition?

9 A. Correct.

10 Q. And you and I have never actually never met outside  
11 of the deposition setting or -- correct?

12 A. Correct.

13 Q. Now, at your deposition do you remember saying that  
14 you had no recollection of Mrs. Joan Boice?

15 MR. REID: It lacks foundation, your Honor.

16 THE COURT: She can respond, if she can.

17 THE WITNESS: I don't remember saying that I don't  
18 recollect her. I remember that I couldn't remember what  
19 she looked like.

20 Q. (By MS. CLEMENT) Okay. So is it true that your  
21 recollection of Mrs. Boice was just that she was a resident  
22 at Emeritus?

23 A. When I first saw the -- the letter regarding the  
24 case, I remembered just because it was a flash of memory of  
25 the name. I couldn't remember what she looked like, but I  
26 did remember she was a resident that had left. I  
27 remembered some of the history with the -- that there was a  
28 decubitus ulcer, there was a move-out. But I didn't

1 remember any other details about it.

2 Q. Okay. So let me just go through what I understand  
3 you to have remembered.

4 A. Okay.

5 Q. You did remember that Joan was a resident at  
6 Emerald Hills?

7 A. Mm-hmm. Yes.

8 Q. And that was during the -- toward the end of your  
9 tenure with the company?

10 A. Correct.

11 Q. And that she was a resident in the Memory Care Unit?

12 A. Yes.

13 Q. And that she -- that her husband Myron moved in as  
14 well?

15 A. Yes.

16 Q. And you remembered that Myron lived in the assisted  
17 living side?

18 A. Yes.

19 Q. And the other thing you remembered about Joan was  
20 that she moved out towards the end of your time at  
21 Emeritus?

22 A. Correct.

23 Q. And you didn't remember any interaction you,  
24 yourself personally had with Mrs. Joan Boice; is that true?

25 A. Correct.

26 Q. And you didn't remember any interaction you had with  
27 Joan's family, either her husband or any other member of  
28 her family, true?

1 A. Correct.

2 Q. And you didn't remember any specific conversations  
3 you had with Mrs. Boice's family, either her  
4 daughter-in-law Kathleen, or her son Eric, or her husband  
5 Myron, true?

6 A. True.

7 Q. And you didn't remember what Joan looked like, true?

8 A. Correct.

9 Q. You remembered that Myron Boice was out and about a  
10 bit more than Joan, so you might have remembered him a  
11 little bit more?

12 A. Correct.

13 Q. But you didn't remember any conversation or anything  
14 with him, true?

15 A. Specifically, no.

16 Q. You didn't remember what Mrs. Boice's son or  
17 daughter-in-law looked like, true?

18 A. True. But having interacted and seen Eric  
19 yesterday, I recognized him when he introduced himself.  
20 And it refreshed my memory that I certainly had seen him  
21 and spoken with him before. I just couldn't remember  
22 specifically.

23 Q. Okay. So you recognized Eric --

24 A. Yes.

25 Q. -- Boice who is sitting here today?

26 And do you remember anything more than just seeing  
27 him in the facility, visiting?

28 A. You know, I don't remember specific interactions.



1 But I know that we did because I clearly recognized him.  
2 And I just -- I interacted with so many people, I can't  
3 remember specifically.

4 Q. That's okay.

5 And you didn't -- you don't remember any complaints  
6 the family had about Mrs. Boice's care at the facility,  
7 true?

8 A. True.

9 Q. And you don't remember having a meeting with  
10 Mrs. Boice's family in November of 2008, true?

11 A. True.

12 Q. And you -- with regard to what you recall about  
13 Mrs. Boice moving from the facility, you don't remember if  
14 it had anything to do with the pressure ulcers, but you  
15 just remember the family -- you did not remember the family  
16 notifying you that Joan was going to be moving?

17 A. Could you --

18 Q. That was kind of a poorly worded question. I  
19 apologize.

20 You don't remember why Joan left the facility? In  
21 other words, whether it was because of pressure ulcers or  
22 some other reason, true?

23 A. I don't know if that's a true or false.

24 Specifically, in the context, I knew that there was a  
25 pressure ulcer. I don't remember a conversation leading up  
26 to it, as far as the move-out process. I do not remember  
27 being notified, so I don't remember the specific reason for  
28 the move-out.

1 Q. Okay. And you were surprised -- you were surprised  
2 that Mrs. Boice had moved out; is that true?

3 A. True.

4 Q. You didn't know if someone else in the building had  
5 been notified, but you, yourself don't recall being  
6 notified that Mrs. Boice was moving out, true?

7 A. Correct.

8 Q. You don't remember whether it was reported to you  
9 that Mrs. Boice -- or strike that.

10 You do remember it was reported to you that  
11 Mrs. Boice had a pressure ulcer?

12 A. Correct.

13 Q. And it was just the one pressure ulcer, true?

14 A. Correct.

15 Q. And you do remember there was some discussion about  
16 whether or not hospice would be involved, home health, or  
17 placement of a skilled nursing facility, true?

18 A. True.

19 Q. But you don't remember any more detail about that,  
20 true?

21 A. Just what was in my deposition, that there was some  
22 discussion about it.

23 Q. And you remember that Joan was moved out without  
24 notification from her family, true?

25 A. True.

26 Q. And you remember that calls to the family for  
27 follow-up were not returned?

28 A. True.

1 Q. Did you make those calls yourself?

2 A. You know, I don't remember.

3 Q. And when you said that Joan was moved out without  
4 notification from the family, what you recall is that at  
5 the conclusion of either a weekend or a period of time when  
6 you weren't in the building, Joan moved out and you weren't  
7 aware of it?

8 A. Correct.

9 Q. And it's your recollection that you -- this was not  
10 a planned move-out for Joan, true?

11 A. True.

12 Q. And you don't remember who, if anyone, reported to  
13 you that Joan had a pressure ulcer or a bedsore?

14 A. I don't remember.

15 Q. And you don't remember the details of what you did  
16 in response to learning that Joan had a pressure ulcer,  
17 true?

18 A. I have a vague recollection of speaking with the  
19 regional team about that, to get some direction on how to  
20 proceed.

21 Q. And so the regional team, that would have been Ronda  
22 Castle, the Regional Director of Operations?

23 A. That would have been her, as well as the regional  
24 nurse.

25 Q. And who was the regional nurse at that time?

26 A. Doris.

27 Q. Okay. And do you remember who of those two people  
28 you spoke with?

1 A. I don't remember, and it may have been both.

2 Q. Okay. Did you save any e-mails or anything about  
3 that communication?

4 A. I personally didn't. From our second deposition, I  
5 think you may have had some that I reviewed. I just  
6 haven't seen them since.

7 Q. Okay. And so it was your understanding that  
8 Mrs. Boice only had one pressure ulcer at Emeritus, true?

9 A. Correct.

10 Q. And that pressure ulcer developed while she was a  
11 resident at Emeritus, true?

12 A. True.

13 Q. And you never learned at any time while you were  
14 still employed at Emeritus that Mrs. Boice had several more  
15 pressure ulcers that developed at Emeritus, true?

16 A. True.

17 Q. And you never looked at the pressure ulcers  
18 Mrs. Boice developed, true?

19 A. True.

20 Q. And the reason you didn't do that is because it's  
21 not within your scope?

22 A. Correct.

23 Q. What does that mean, "not within your scope"?

24 A. When I say "not within my scope" there's a term or a  
25 phrase called "scope of practice," and that would refer to  
26 something that you have the skill and the training to do.  
27 And it's typically referred to with healthcare  
28 professionals.

1 Q. And at the time that Mrs. Boice was a resident in  
2 the fall of 2008, did you have the skill and knowledge to  
3 assess pressure ulcers?

4 A. No.

5 Q. And whose scope was it in to look at pressure ulcers  
6 on your staff?

7 A. That's the scope of the nurse. And Peggy was the  
8 nurse.

9 Q. Okay. Is that --

10 A. Sorry. Peggy Stevenson.

11 Q. Thank you.

12 A. Mm-hmm.

13 Q. Now, you recall that you -- you had four different  
14 bosses during the course of your tenure or year-and-a-half  
15 at Emeritus?

16 A. Correct. Sorry.

17 Q. And those bosses were Don Zimmerman -- oh, no.  
18 Kimberly Kent?

19 A. Yes.

20 Q. Don Zimmerman?

21 A. Yes.

22 Q. Catherine Ratelle and Ronda Castle?

23 A. Yes. And Catherine Ratelle was filling in in the  
24 absence of an RDO.

25 Q. So when you didn't have a regional director of  
26 operations, you reported directly to the Vice President of  
27 Operations, Catherine Ratelle?

28 A. Correct.

1 Q. And four different nurses during your tenure as  
2 well, in a year-and-a-half?

3 A. Yes.

4 Q. So that was -- Tracy Dekel was the first one?

5 A. Correct.

6 Q. And she left? She quit?

7 A. Yes.

8 Q. And then you went a period of time without a nurse,  
9 six, eight weeks?

10 A. Sounds right.

11 Q. And then you hired Mary Kasuba?

12 A. Correct.

13 Q. And then Mary Kasuba, after two months, wrote a  
14 letter to you and corporate headquarters about concerns she  
15 had, and then her resignation was accepted?

16 A. Correct.

17 Q. And you brought Mary Kasuba's letter in an e-mail  
18 that she sent to you at your deposition, correct?

19 A. Correct.

20 Q. Do you remember bringing it and taking it right out  
21 of your purse and handing it to me?

22 A. I don't. I was nervous.

23 Q. Okay. Thank you.

24 Now -- then after Mary left, you went a period of  
25 time again without a nurse, true?

26 A. True.

27 Q. And then they brought in a nurse from another  
28 Emeritus facility to be there part-time, Bertha Bell, true?

1 A. I don't know that they brought her in to be  
2 part-time, or I don't know that I would say it that way.  
3 She was visiting initially from another building and then  
4 became full-time at Emeritus.

5 Q. And then what were the circumstances of Bertha Bell  
6 leaving?

7 A. She resigned. But prior to her resignation, there  
8 had been a period of time when she first started at Emerald  
9 Hills that it was discovered -- and I don't remember if she  
10 discovered it or if it was during a audit -- that the  
11 med techs were drawing up insulin which was not correct.  
12 And she -- part of her time there was supposed to be spent  
13 resolving that issue in various ways, getting residents  
14 switched over to pens, helping teach them how to  
15 self-administer. And it was brought to my attention one  
16 day that she was still having the med techs do the drawing  
17 up of the insulin. And so I notified corporate. Called  
18 her in, asked her to explain in her words and write down  
19 what happened. And she resigned.

20 Q. And so then you went again without a nurse, true?

21 A. True.

22 Q. And then after a few months you found Peggy, true?

23 A. I don't remember how long it was, but -- I don't  
24 remember if it was -- I guess I'd say define "a few." I  
25 don't know that we ever established Bertha's end date.

26 Q. Yeah, I know. I've been trying to find that out,  
27 too.

28 So Bertha left sometime in -- do you believe it was

1 in January of 2008?

2 A. Yes.

3 Q. And then sometime in late March of 2008, is that  
4 when Peggy started?

5 A. That sounds correct.

6 Q. I'm going off memory here, so I'm not a hundred  
7 percent sure, so...

8 A. Okay.

9 Q. Okay. So, now --

10 MS. CLEMENT: I'd like to run a storyboard clip now,  
11 your Honor. Page --

12 THE COURT REPORTER: I need you to repeat it. Page?

13 MS. CLEMENT: 110, lines 18 to 21.

14 MR. REID: No objection, your Honor.

15 THE COURT: All right. Thank you.

16 **(The following video excerpt was then played in open**  
17 **court):**

18 Q. Would it be fair to say that the training sessions  
19 that you attended were primarily regarding sales,  
20 marketing, and budgeting?

21 A. Yes, that would --

22 **(Video stopped.)**

23 MS. CLEMENT: What happened? You stepped on  
24 yourself there.

25 Did the jury hear that?

26 Q. (By MS. CLEMENT) So the training that you received  
27 from Emeritus was primarily sales and marketing, true?

28 A. True.



1 Q. And during your deposition, the seminar you could  
2 recall was done by Tracy Bild, B-I-L-D. It was a marketing  
3 seminar put on by Emeritus?

4 A. Yes.

5 Q. And you received no training about the type of  
6 residents you could admit to Emeritus, true?

7 A. True.

8 Q. And Emeritus never provided you any training  
9 regarding how to appropriately staff the facility, true?

10 A. True.

11 Q. And Emeritus never provided you any training on how  
12 to reassess a resident if they had a change in condition,  
13 correct?

14 A. Correct.

15 Q. And you had to rely on the resident care director on  
16 your staff to do those assessments, who was a nurse, true?

17 A. True.

18 Q. And during the time periods that you didn't have a  
19 nurse, who were you relying upon to do those assessments of  
20 the residents?

21 A. That could be a number of people. The memory care  
22 director, Alicia, could do it. I may have, but I don't  
23 remember specifically doing it. Or a nurse from another  
24 building may have done it.

25 Q. And that would be every time a resident had a change  
26 in condition, either Alicia, you, or a nurse from another  
27 building would come in and do a reappraisal, assessment of  
28 the resident?

1 A. I'm sorry. I was already thinking about the move-in  
2 assessment. I'm sorry. I'm a little nervous.

3 Q. That's okay. Do you need some water?

4 A. No. That's fine. Thank you.

5 Q. Do you need me to ask the question again?

6 A. I think so. Yeah.

7 Q. Okay. No problem.

8 So how far back do you need me to go?

9 A. Are we talking about a reassessment for a change of  
10 condition?

11 Q. Yes.

12 A. Okay. And, you know, I just -- I don't remember. I  
13 don't remember addressing it. I don't remember -- I don't  
14 remember how that was handled.

15 Q. Okay. And so was Alicia Parga -- was she qualified  
16 to do a reassessment if a resident had a change in  
17 condition?

18 A. I think it depends. I don't remember. I don't  
19 remember specifically that qualifications were instructed.  
20 I do know if there was an assessment needed and there was  
21 not a nurse in the building, that it was discussed with a  
22 regional nurse about how to best handle that. But, again,  
23 for a reassessment, I just -- I don't remember how -- or  
24 for a assessment for change of condition, I don't really  
25 remember how those were handled at that time.

26 Q. So if a resident, for example, had a change in  
27 condition, where they started experiencing more frequent  
28 and intense pain on their right foot and they could no

1 longer bear weight on their foot, is that an assessment or  
2 a reassessment that Alicia Parga could do?

3 A. I don't think so.

4 Q. Is that an assessment that you would feel  
5 comfortable doing?

6 A. No.

7 Q. Now, with regard to this issue of training, were you  
8 relying on Emeritus to provide training to the nurses that  
9 they hired for the position of resident care director to  
10 ensure that they knew what the -- Emeritus' policies were  
11 and the Title 22 policies were -- or regulations were?

12 A. You know, I don't remember what I was expecting  
13 then. I didn't have something formal to put her through,  
14 other than a binder of resident care director or whatever  
15 the title is that we needed to go through and have her do.

16 Q. Okay. And you -- and that was a pretty full-time  
17 job for you as the executive director, true?

18 A. True.

19 Q. And the reason -- one of the reasons you left was  
20 because of how many hours that you had to work and you were  
21 away from home, true?

22 A. True.

23 Q. And you left to go to a job with fewer hours and  
24 better pay, true?

25 A. True.

26 Q. And you're still at that company, true?

27 A. True.

28 Q. And it's a hospice company?

1 A. It is.

2 Q. Do you know if during the time periods that there  
3 was not a full-time nurse at the facility, if the sales and  
4 marketing department was still telling families,  
5 prospective residents, that Emeritus had a full-time nurse  
6 at the facility?

7 A. I can't say for certain what they were saying.

8 Q. Now, during the time that you were -- strike that.  
9 While Peggy Stevenson was working at Emerald Hills,  
10 she also was given assignment by Emeritus to be at least  
11 two days a week at a different facility, correct?

12 A. Correct.

13 Q. And was that the stand-alone Memory Care Unit in  
14 Roseville?

15 A. Correct.

16 Q. I think I misspoke the other day and said Citrus  
17 Heights.

18 That's Roseville Gardens?

19 A. Correct.

20 Q. And how far away is Roseville Gardens from Emeritus  
21 at Emerald Hills in Auburn? And when I say "far away," I  
22 mean driving time.

23 A. Um, probably about -- if there's no traffic, 35  
24 minutes.

25 Q. Okay.

26 A. Maybe --

27 Q. With traffic?

28 A. Oh. That could be an hour.

1 Q. Did you ever make it a point yourself, when you were  
2 signing up families, prospective residents, to tell them  
3 that there wasn't a full-time nurse in the building during  
4 the time periods that you didn't have a full-time nurse?

5 A. I don't know that I would word it as making a point  
6 of telling them that. I was very forthcoming with  
7 questions that were asked. And I do know that nursing,  
8 obviously, is a big question that families have. And so I  
9 would always explain if there was not a nurse in the  
10 building, that that was a position that we do have and are  
11 hiring for it. But I never kept that information away from  
12 a family member or a prospective family member.

13 Q. But if a family member didn't know to ask you what a  
14 full-time nurse meant in the facility, would you have  
15 explained, for example, like when Peggy was having to  
16 divide her time between two -- multiple facilities?

17 A. Yes.

18 Q. Do you recall if you told that to the Boice family?

19 A. I don't.

20 Q. And you're the person who hired Peggy Stevenson for  
21 Emeritus, true?

22 A. Correct.

23 Q. And that hiring, did that have to be approved by the  
24 regional team?

25 A. Yes. In fact, I believe the regional nurse  
26 interviewed her as well.

27 Q. And you knew when you hired Peggy that although she  
28 was an RN, she never had any experience as -- in assisted

1 living?

2 A. I didn't remember that prior to my deposition. But  
3 that came up during the deposition, so I remember from that  
4 conversation with you.

5 Q. You did expect Emeritus to provide Miss Stevenson  
6 with some training on how to do her job, true?

7 A. True.

8 Q. And that's because you didn't feel qualified to  
9 train someone on how to be a resident care director because  
10 you, yourself are not a nurse, true?

11 A. True.

12 Q. And it's true that Peggy Stevenson complained to you  
13 about feeling overwhelmed?

14 A. I don't remember a complaint from her about that.  
15 We talked about so many things.

16 Q. Is it true that Peggy Stevenson complained to you  
17 about the lack of training she felt she didn't have to do  
18 her job?

19 A. Again, I don't remember a specific complaint from  
20 her.

21 Q. Do you remember that the Roseville building where  
22 Mrs. Stevenson was directed to spend part of her time is  
23 one where there was no nurse or an executive director?

24 A. I don't remember that there wasn't an executive  
25 director. So that may be. But I do remember that the  
26 reason she was going was that there was either no nurse or  
27 somebody new that she they'd needed to train.

28 Q. Okay. And then you had Alicia Parga who was the

1 memory care director?

2 A. Correct.

3 Q. And was she in that position before you came on  
4 board?

5 A. Well, I remembered her to be in that position when I  
6 came on board. But in our -- the first deposition, you  
7 explained testimony that was contrary to that. I don't  
8 remember the scenario that you laid out for me, but what I  
9 understood is she was in that position when I came to the  
10 building.

11 Q. Okay. So Miss Parga had an important job in the  
12 facility as the memory care director, true?

13 A. True.

14 Q. And she was a person who you were relying on to  
15 handle critical paths as it related to ensuring the safety  
16 of the dementia residents?

17 A. True.

18 Q. And were you aware that Miss Parga did not meet what  
19 Emeritus found to be their minimum eligibility requirements  
20 for that position pursuant to their job description?

21 A. No.

22 Q. Do you remember ever doing a performance evaluation  
23 of Miss Parga?

24 A. No.

25 Q. And as a manager at the time -- you were a manager  
26 at Emeritus, true?

27 A. True.

28 Q. And would you agree it's important that employees be

1 supervised?

2 A. True.

3 Q. And that's the way you make sure employees are doing  
4 a good job?

5 A. Yes.

6 Q. And that gives you the opportunity, if there's  
7 supervision -- adequate supervision, to provide feedback  
8 and help them to grow and do a good job for the residents?

9 A. Yes.

10 Q. And that would be true at all levels of the  
11 organization, correct?

12 A. Correct.

13 Q. And you needed supervision yourself, too, because  
14 this was a new position for you?

15 A. True.

16 Q. And you don't remember ever having a performance  
17 evaluation, true?

18 A. Correct.

19 Q. And you don't know whether anyone at Emeritus was  
20 supervising your administration at Emerald Hills to  
21 determine if you were meeting the needs of the residents on  
22 your own there?

23 A. Could you say that again, please.

24 Q. Yes.

25 You don't remember whether anyone from Emeritus was  
26 supervising your administration of the building to  
27 determine if you were fulfilling your responsibilities?

28 A. True.



1 MS. CLEMENT: Your Honor, I have two storyboard  
2 clips I need to play now.

3 THE COURT: All right.

4 MS. CLEMENT: Page 380, 19 to 25. Page 215, lines  
5 17 through 19.

6 THE WITNESS: Oh, okay.

7 MR. REID: No objection to the first clip.

8 Could I get the second clip again, Counsel.

9 MS. CLEMENT: 215, 17 to 19.

10 MR. REID: I don't think they're impeaching, your  
11 Honor. But I have no objection.

12 THE COURT: All right. Go ahead. Play it.

13 **(The following video excerpt was then played in open**  
14 **court):**

15 Q. Did you know whether anyone from Emeritus was  
16 supervising your administration of Emerald Hills to  
17 determine if you were meeting the needs of each of the  
18 residents?

19 A. I don't know if or how. I would expect that they  
20 were reviewing the event reports that were going to them.

21 Q. Do you remember ever having a written performance  
22 evaluation done of you?

23 A. I don't remember having one, no.

24 **(Video stopped.)**

25 Q. (By MS. CLEMENT) Now, as the director, executive  
26 director, you had to rely on staff to ensure the safety of  
27 the residents, true?

28 A. True.

1 Q. And you understood that Emeritus was at all times  
2 required to have enough staff in the building to meet the  
3 needs of the residents, both in numbers of staff and in  
4 staff competency?

5 A. True.

6 Q. And you understood that the quality of services  
7 rendered to the residents was dependent on having staff who  
8 were qualified and trained?

9 A. True.

10 Q. And it was dependent on having enough staff?

11 A. Correct.

12 Q. And you remember from the Emeritus literature that  
13 was given to families that Emeritus promised the families  
14 that their loved ones would be cared for by highly-trained  
15 staff?

16 A. Yes.

17 Q. And they promised, in the Memory Care Unit, an  
18 activities-focused program?

19 A. Yes. And let me also clarify. I can't remember  
20 word-for-word the literature, but I know it's been talked  
21 about in deposition.

22 Q. And these were -- these promises that Emeritus made  
23 were things that you were trained in your sales and  
24 marketing classes with Emeritus to repeat to prospective  
25 family members?

26 A. Yes.

27 Q. And you had to spend a lot of your time marketing  
28 the building, true?

1 A. True.

2 Q. You had to go outside of the facility -- go to see  
3 discharge planners at the hospital, at the nursing homes,  
4 and other places where there are potential residents who  
5 could come into Emeritus -- and pass out that literature?

6 A. Correct.

7 Q. And you had to talk to those people and try to  
8 encourage them to bring residents to Emerald Hills?

9 A. Correct.

10 Q. And you had to do community events where you tried  
11 to bring people in to Emerald Hills?

12 A. Correct.

13 Q. And all of these things that you were doing  
14 regarding sales and marketing, these were things that were  
15 all directives given to you from Emeritus corporate, either  
16 the regional team, the divisional team, or Seattle?

17 A. Correct.

18 Q. And they actually gave you the specific language  
19 that you were supposed to use, and they did role playing  
20 with you in your -- in your training sessions so you would  
21 know how to talk to people?

22 A. Correct.

23 Q. So you understood that while you were the executive  
24 director you were not -- or Emeritus was never required to  
25 accept any particular resident for care?

26 A. I'm sorry?

27 Q. You understood as the executive director that  
28 Emeritus was not required to accept a particular resident

1 for care?

2 A. Sure.

3 Q. However, if Emeritus did accept that resident at  
4 Emerald Hills, Emeritus would be responsible for meeting  
5 the needs of that resident?

6 A. Correct.

7 Q. And that meeting those needs included having enough  
8 staff to care for each resident in the building?

9 A. Correct.

10 Q. And if a resident was someone who needed the  
11 assistance of more than one person, then you would need to  
12 have more than one person to care for that resident, true?

13 A. True.

14 Q. And if you had residents who needed the assistance  
15 of more than one person, you still had to provide enough  
16 staff to meet the needs of the other 70, 80 other people in  
17 the building, true?

18 A. True.

19 Q. And you understood that Emeritus -- in addition to  
20 the Title 22 regulation requirements, Emeritus had their  
21 own policies about staffing?

22 A. I don't remember what their policies were, but I'm  
23 sure there were. There were policies on everything.

24 Q. Do you remember that they didn't give you any kind  
25 of a staffing ratio to tell you how much staff that you  
26 should be putting in the building based upon resident  
27 acuity or number of residents?

28 A. I don't remember a staffing ratio. And I think the

1 question that came up in deposition was whether I was aware  
2 of a staffing ladder, and that's not something I was aware  
3 of either.

4 Q. So a staffing ladder, is that something that you  
5 understand is based upon the number of residents and their  
6 acuity or level of care needs?

7 A. Honestly, I've never worked with a phrase "staffing  
8 ladder." I've just heard it out there. So I don't know.

9 Q. Okay. And was it your understanding that, in  
10 general, it was Emeritus' written policy to have enough  
11 staff to meet the care of each of their residents?

12 A. I can't say what a written policy was because I  
13 can't visualize it. I don't remember it.

14 Q. That's okay.

15 Did you get any training from Emeritus on any  
16 policies or -- about staffing?

17 A. Not that I remember, no.

18 Q. Did you get any -- and you didn't get any training  
19 from Emeritus on, you know, the level of care of a resident  
20 you could admit to the facility either, true?

21 A. True.

22 Q. So basically the training you got was sales and  
23 marketing, bringing them in the door, true?

24 A. True.

25 Q. Now, during the year-and-a-half that you worked at  
26 the facility -- oh, strike that. I'm sorry.

27 MS. CLEMENT: I need to play a storyboard, your  
28 Honor. It's page 40, lines 20 through 23.

1 THE COURT: Is this from the opening?

2 MS. CLEMENT: No, it's not, your Honor.

3 THE COURT: All right. Mr. Reid?

4 MR. REID: No objection, your Honor.

5 THE COURT: All right. Thank you.

6 **(The following video excerpt was then played in open**  
7 **court) :**

8 Q. During that year-and-a-half, did you ever have any  
9 employees complain to you that they thought the facility  
10 was understaffed?

11 A. Yes.

12 **(Video stopped.)**

13 Q. (By MS. CLEMENT) One of those individuals was your  
14 nurse Mary Kasuba, true?

15 A. True.

16 Q. And one of those individuals was your nurse Peggy  
17 Stevenson, true?

18 A. You know, I don't remember a conversation with her,  
19 nor do I remember a specific conversation with Mary. But  
20 it's something that clearly was outlined in her letter.  
21 So, of course, that was directed to me and I remember  
22 reading that.

23 Q. Okay. So there were other individuals; you just  
24 don't remember the names of those people, true?

25 A. Or the conversations.

26 Q. Okay. It was your belief that the staff just did  
27 not understand, when they complained to you about  
28 understaffing, what your constraints were with regard to

1 the budget and what you could staff for, true?

2 A. Could you say the question again, please.

3 Q. Yes. Certainly.

4 At the time you heard these complaints about  
5 understaffing, it was your belief that the staff did not  
6 understand what constraints you were on by Emeritus  
7 corporate with regard to your budget for staffing?

8 A. Correct.

9 MS. CLEMENT: Opening statement clip, your Honor.  
10 Page 254, lines 23 through 254 -- excuse me, through 255,  
11 3.

12 THE COURT: Any objection, Mr. Reid?

13 MR. REID: Well, it's cumulative. It's what she  
14 just asked and answered.

15 THE COURT: I don't have the depositions in front of  
16 me. Is it -- is it identical to what the witness has  
17 testified to on the stand?

18 MS. CLEMENT: No. It's not.

19 MR. REID: Then I'll withdraw my objection.

20 THE COURT: All right. Go ahead.

21 **(The following video excerpt was then played in open**  
22 **court):**

23 Q. Okay. Well, who would know better than the staff  
24 who were completing out the resident care duties than the  
25 staff themselves as to whether or not they were short?

26 A. The staff weren't aware of what the staffing budget  
27 was.

28 **(Video stopped.)**

1 Q. (By MS. CLEMENT) Do you remember also,  
2 Miss Cordova, that you had complaints from family members  
3 about understaffing?

4 A. I do remember one specific family. And it was  
5 refreshed because we came -- we discussed it during the  
6 deposition.

7 Q. And did you often -- besides families, did you hear  
8 from residents who told you that they had concerns that  
9 there wasn't enough staff?

10 A. In general. But I don't remember a specific  
11 complaint or conversation.

12 Q. And do you remember telling families and residents  
13 that you were sorry but you just didn't have the -- it in  
14 your budget to add more staff?

15 A. I'm not sure how I put it. But I certainly would  
16 have conveyed that there was a budget to work within.

17 Q. And you didn't have control yourself to exceed that  
18 budget and hire more staff, did you?

19 A. No.

20 Q. For example, you couldn't have gone out and if you  
21 needed 500 more employees to care for the building, you  
22 couldn't have gone out there and hired those people, could  
23 you?

24 A. No.

25 Q. So is it true that on some days when you were short  
26 of staff that you would personally jump in and help? Like,  
27 for example, doing dishes in the kitchen when you were  
28 short?



1 A. Yes.

2 Q. And is it true because of short-staffing that the  
3 caregivers would sometimes have to work double shifts?

4 A. Um, yes. Double or extra days. And it was  
5 voluntary. It was not mandated. But certainly, they did.

6 Q. And isn't it true that some nights the Memory Care  
7 Unit had no staff in that unit, on the overnight shift?

8 A. No staff present, or no staff scheduled?

9 Q. No staff present in the Memory Care Unit.

10 A. Not that I'm aware of, no.

11 Q. Are you aware of nights when there were only two  
12 staff in the whole building and no one was assigned to the  
13 Memory Care Unit?

14 A. Specifically, not that I remember. No.

15 Q. Is it your recollection that in that last quarter  
16 that -- of 2008, the last months that you were there when  
17 Mrs. Boice was a resident, that it was routine that there  
18 would only be one staff member working on the overnight  
19 shift in the Memory Care Unit?

20 A. You know, I just don't remember what the staffing  
21 was.

22 Q. Can you look at exhibit -- page -- Exhibit 32. And  
23 there's binders behind you with the exhibit numbers on  
24 them.

25 A. Exhibit 32?

26 THE COURT ATTENDANT: Exhibit 232.

27 THE COURT: Is that what she said?

28 No. Exhibit 32.

1 THE COURT ATTENDANT: Exhibit 32.

2 THE WITNESS: Okay.

3 Q. (By MS. CLEMENT) Do you see that Exhibit 32 is the  
4 in-service binder for Emerald Hills for 2008?

5 A. It's an in-service log. I see some attendance  
6 records, some filled out, some blank. I see some e-mails.  
7 So I'm not sure. I see policies that are signed.

8 So I'm sorry. The question is, "Is this the  
9 in-service log?"

10 MS. CLEMENT: Your Honor, the parties have reached a  
11 stipulation that Exhibit 32 is the in-service binder for  
12 2008.

13 THE COURT: You have a stipulation?

14 MR. REID: Yes, your Honor. We'll stipulate to  
15 that.

16 THE COURT: Is it in writing?

17 MR. REID: It is not in writing.

18 THE COURT: All right. What is the stipulation,  
19 please.

20 MS. CLEMENT: That Exhibit 32 is the complete  
21 in-service record of training at Emeritus at Emerald Hills  
22 for 2008.

23 MR. REID: I think I would phrase the stipulation a  
24 little differently.

25 THE COURT: That's why I generally require it in  
26 writing, so that I know you've actually agreed to it.

27 MS. CLEMENT: Okay.

28 (Ms. Clement and Mr. Reid confer.)

1 Q. (By MS. CLEMENT) Okay. The stipulation is:

2 Exhibit 32 is a complete copy of the Emerald Hills  
3 in-service binder for 2008 that was produced during  
4 discovery.

5 MR. REID: As it existed at the time of the  
6 discovery, your Honor.

7 THE COURT: All right. Ladies and gentlemen, you  
8 may recall in the introductory instructions that I gave you  
9 that when the parties through their counsel stipulate to  
10 something being true, you must accept that as a fact.

11 So this document, Exhibit 32, which is being  
12 admitted into evidence --

13 Is that correct?

14 MS. CLEMENT: It's already been moved in, your  
15 Honor.

16 THE COURT: All right. -- is in evidence, is a  
17 complete copy of the Emerald Hills binder -- in-service  
18 record binder as it existed at the time of discovery.

19 Please continue.

20 Q. (By MS. CLEMENT) Okay. Ms. Cordova, could you tell  
21 the jurors what an "in-service" is.

22 A. It's a training of staff in any number. It can be  
23 one to two staff versus a whole lot of them, on any topic  
24 that is relevant at the time.

25 Q. Okay. And you understood at the time you were  
26 executive director that there were certain mandated  
27 staffing -- strike that.

28 You understood at the time you were executive

1 director that there was mandated staffing -- say it again.  
2 I apologize.

3 You understood at the time you were executive  
4 director that there was mandated training for your  
5 caregiving staff?

6 A. Correct.

7 Q. And that was mandated by the State?

8 A. Yes.

9 Q. And there was additional training that was mandated  
10 for the caregivers who worked with the dementia care  
11 residents?

12 A. Correct.

13 Q. And there was also -- Emeritus had its own staffing  
14 training requirements, true?

15 A. True.

16 Q. And if you can turn to pages 25 through 27 of  
17 Exhibit 32. It's an in-service dated January 18th, '08.

18 MS. CLEMENT: Okay. And, Erik, can you bring up the  
19 top.

20 Is that legible? Sort of? No?

21 Erik, can you make it bigger? Thank you.

22 Q. (By MS. CLEMENT) Okay. Was this an in-service  
23 training that you put on with Bertha Bell?

24 A. It says that it is. It says that the two presenters  
25 are Bertha Bell and Nancy Cordova.

26 Q. And you did this on January 11th, 2008?

27 A. That's the date, yes.

28 Q. Okay. And then it looks like there were 13

1 employees who attended.

2 A. Correct.

3 Q. And that included your med tech, Nanette Read;  
4 Alfredo, who was a caregiver. Yes?

5 A. Uh, correct.

6 Q. Jenny Hitt, who was a med tech?

7 A. Correct.

8 Q. And then other caregivers. And you included  
9 Angelica Juarez who was a med tech?

10 A. Correct.

11 Q. Maritza Morales, who was a care director in the  
12 Memory Care Unit?

13 A. Correct.

14 Q. Jessica Guerra. Do you remember what her role was?

15 A. I don't remember. I think she was a resident  
16 assistant, but I don't remember.

17 Q. Okay. And then Rachel Smith. She was the med tech  
18 who had been -- when Mary Kasuba was hired, she was her  
19 assistant, correct?

20 A. Correct.

21 Q. And then she stepped down due to what she felt was  
22 stress and pressure on the job? Went back to just being a  
23 med tech?

24 A. Yeah. I don't remember the context of the step  
25 down. It was a while ago. But I do remember she stepped  
26 down.

27 Q. And do you remember then that Emeritus eliminated  
28 that position so there was no assistant then to the

1 resident care director?

2 A. I don't remember it being eliminated. I don't  
3 remember it being open for a rehire or having anybody else  
4 appointed to that.

5 Q. Okay. So when you did eventually get another nurse,  
6 that nurse had no assistant?

7 A. Correct.

8 Q. Okay. And then Michele Riley. She was a caregiver  
9 and a med tech on the memory care side?

10 A. Correct.

11 Q. Okay. Now let's turn to the next page.

12 MS. CLEMENT: And, Erik, if you can just bring it up  
13 little bits at a time, because otherwise we can't read it.

14 Q. (By MS. CLEMENT) Okay. So this was your agenda for  
15 the in-service meeting, true?

16 A. This is the agenda.

17 Q. And this lists out the shift times, reminding the  
18 staff about attendance, right?

19 A. Yes.

20 Q. Because the purpose of this in-training -- this  
21 in-service training was to talk about the staff about  
22 absenteeism, their attendance, calling off or calling in,  
23 true?

24 A. It looks like it.

25 Q. And you wanted the -- a no call, no show, meaning  
26 nobody called or showed up, that would be grounds for an  
27 immediate termination?

28 A. Yes.

1 Q. And you'd been having problems with that at the  
2 time, true?

3 A. You know, I don't remember. It's -- there must have  
4 been a reason that it was on here.

5 Q. Okay. That was a problem that you experienced over  
6 the course of your tenure, true? Where you were -- where  
7 sometimes caregivers or med techs, they didn't call, they  
8 didn't show, they just -- no one showed up?

9 A. You know, I don't remember a specific incident, but  
10 that certainly has happened. That happened during my time  
11 at Emeritus.

12 Q. And you wanted them to know that if they did call in  
13 they needed to call a manager, you?

14 A. Yes.

15 Q. Okay. And --

16 A. It looks like me, slash, manager. So the context  
17 may be that -- call me or another manager.

18 Q. Okay. So that could have been any of the department  
19 heads?

20 A. Correct.

21 Q. And so the other department heads then would have a  
22 call list to call and try to find other employees?

23 A. Yes.

24 Q. Was it the responsibility, too, of the staff in the  
25 building who got a call if someone was not going to come in  
26 to also try to find somebody else to fill in?

27 In other words, on the p.m. or the night shift, when  
28 there was no managers in the building and they got a call

1 from, say, Jacelyn (phonetic), and she says, "I'm not  
2 coming in," and it's an hour before her shift is supposed  
3 to start, "I'm sick," was it true that the employees were  
4 expected to get on the call list -- or the employee list  
5 and try to find someone to come fill in?

6 A. You know, I can't remember how that got handled.

7 Q. Okay. All right. So you went over with them the  
8 staff meal times and just what a typical day was going to  
9 be for them? Do you remember anything about what the  
10 purpose of that staff meal times was?

11 A. I don't. I don't remember this specific in-service  
12 but --

13 Q. Okay.

14 A. -- hopefully it speaks for itself.

15 Q. Now, let's go to the section about "Family  
16 Complaints."

17 This was a list of things that the families had been  
18 complaining about that had gotten back to you, true?

19 A. I don't --

20 MR. REID: It lacks foundation.

21 THE WITNESS: Yeah. I can't say what prompted the  
22 list. I don't know. It speaks for itself.

23 Q. (By MS. CLEMENT) Okay. So to the best of your  
24 understanding, the reason you were training the staff about  
25 family complaints was because these were things that were  
26 coming back to you, or Bertha Bell, that the families were  
27 complaining about?

28 A. As I read this, yes.



1 Q. Okay. So, "knock before entering."

2 That meant they wanted the employees to knock before  
3 entering the resident's room?

4 A. Correct.

5 Q. And to introduce themselves rather than just say,  
6 "Who are you?"

7 A. Correct.

8 Q. And you told the staff they don't -- that the  
9 families of the residents don't need to know that you're  
10 tired?

11 A. Correct.

12 Q. And "They are not to hear we are short-staffed."

13 A. That's what it said. And, again, I don't remember  
14 this in-service. But I do remember instructing staff to,  
15 in general, not complain to families or residents, period,  
16 because it's just not appropriate.

17 Q. And you told them not to tell the families or the  
18 residents about their background, job history, things like  
19 that?

20 A. Correct.

21 Q. And you told them to get those showers done?

22 A. It looks like that's what was on the list. Again,  
23 I'm sorry. I don't remember this in-service.

24 Q. Okay. I'm just asking you for --

25 A. Sorry.

26 Q. So, "Showers, get them done."

27 You didn't mean for the caregivers to take showers;  
28 you meant for the caregivers to give the residents their

1 showers?

2 A. In the context of this -- just the work that we do,  
3 yes.

4 Q. Okay. And radios. What's radios?

5 A. Oh, walkie-talkies.

6 Q. Okay. And was there times during your employment  
7 that there weren't enough walkie-talkies functioning for  
8 all the residents -- for all the resident care assistants?

9 A. Yes.

10 Q. And some of them had to be taped together because  
11 they were broken?

12 A. I don't remember tape. But, okay.

13 Q. And do you remember that some of the caregivers  
14 offered to do like a bake sale to try to raise money so  
15 they could get more walkie-talkies?

16 A. No, I don't remember that.

17 Q. And you wanted to remind those caregivers not to  
18 turn off their radios, and if there was a battery dead, get  
19 a new one. Right?

20 A. Yes.

21 MS. CLEMENT: Okay. Next section, please.

22 Q. (By MS. CLEMENT) And you also gave a training that  
23 the residents, if they had briefs, adult briefs, Depends,  
24 that they must be removed from the room immediately and not  
25 left dirty in their room, true?

26 A. True.

27 Q. And that was something that you'd been hearing  
28 problems with?

1 A. I don't remember what prompted this. But that would  
2 cause an odor in the room, if it was left there.

3 Q. Why do you think you bold, capitalized and  
4 underlined the word "must" be removed?

5 A. Do you want me to speculate on why I would have done  
6 that?

7 Q. No, I don't want you to speculate, Miss Cordova.

8 A. Okay. Okay.

9 Q. I'm just asking you, in the normal course of your  
10 experience, why would you bold, capitalize and underline  
11 something in a presentation?

12 A. To call attention to that it needs to be done and  
13 perhaps hadn't been.

14 Q. And you told the staff tie those dirty Depends in a  
15 small bag and put them in a central trash can and empty the  
16 trash can at the end of each shift, true?

17 A. True.

18 Q. And the beds -- oh, soiled linens. You wanted to  
19 remind them to remove those immediately, true?

20 A. True.

21 Q. And you wanted to instruct the staff and said --  
22 capitalized there -- "Do not just cover up a wet spot"?

23 A. True.

24 Q. Do you remember that being a problem, the staff just  
25 covering a wet spot instead of changing the sheets?

26 A. I don't. But it may have been.

27 Q. Okay.

28 MS. CLEMENT: Next. Oh, thank you.

1 Q. (By MS. CLEMENT) So, "NOC, telephones."

2 Is that a problem because the staff was not  
3 answering the phones at night?

4 A. I don't know.

5 Q. Do you remember that you had your Spanish-speaking  
6 staff working on the night shift?

7 A. They may have been, yes.

8 Q. And you had staff who were primarily  
9 Spanish-speaking and had very -- had difficulty speaking  
10 English?

11 A. Some staff, yes.

12 Q. And that included caregivers?

13 A. Yes.

14 Q. And those caregivers were hesitant to answer the  
15 telephones at night?

16 A. You know, it's hard to say. I don't remember -- I  
17 often would call on the NOC, and so I don't remember having  
18 a hard time reaching somebody.

19 Q. And then incontinent care.

20 Was it a concern at that time that the residents  
21 were not getting cleaned after they'd had a episode of  
22 incontinence of either bowel or bladder?

23 A. I -- I don't know. There's just no details on that.  
24 It may have been a reminder to do it.

25 MS. CLEMENT: Thank you, Erik.

26 Q. (By MS. CLEMENT) Now, going back to budget and  
27 occupancy.

28 A. Mm-hmm.

1 Q. Was it true that corporate always had the final say  
2 in the budget?

3 A. True.

4 Q. They asked you for some input, but that was just  
5 kind of a pro forma thing; they created the budget?

6 MR. REID: It's vague, your Honor.

7 THE COURT: I'm sorry?

8 MR. REID: It's vague.

9 THE COURT: Overruled.

10 THE WITNESS: Am I done with this?

11 Q. (By MS. CLEMENT) Yes, you are.

12 A. Okay. Sorry. What was the question?

13 Q. Yes. The question was: Corporate would present you  
14 with the budget, for example, for 2008, because -- well,  
15 let me lay a foundation.

16 2007, the budget was already in place, true?

17 A. True.

18 Q. Because you -- and you started mid-year, true?

19 A. Correct.

20 Q. And for 2008, corporate provided you with a budget,  
21 but they made all the decisions about how much you were  
22 going to have in your budget for labor, true?

23 A. True.

24 Q. And all the money that the residents paid to  
25 Emeritus at Emerald Hills, that went straight to corporate,  
26 true?

27 A. True.

28 Q. You didn't have a bank account, true?

1 A. I didn't have a bank account, no.

2 Q. They gave you -- I think it was called a P-card or  
3 some kind of a little -- a limited credit card where you  
4 could buy some small amount of money things, true?

5 A. True.

6 Q. And you always felt pressure from corporate to meet  
7 your staffing budget, true?

8 A. True.

9 Q. And if you didn't meet your budget on any line item,  
10 you had to, each month, personally explain why you didn't  
11 to corporate, true?

12 A. True.

13 Q. And you had to spend a lot of time each month in  
14 your office going over those budget variance reports and  
15 give an explanation, true?

16 A. True.

17 Q. Was that stressful, having to do that for  
18 everything?

19 A. Sure.

20 Q. Explain yourself for every item?

21 A. Yes. That's a long process.

22 Q. And is it true that the expectation from Emeritus is  
23 that you would always attempt to be at a hundred percent  
24 occupancy?

25 A. True.

26 Q. And you always felt pressure to get more residents?

27 A. True.

28 Q. In fact, it was your understanding that Emeritus

1 gave bonuses as a result of getting new residents admitted,  
2 true?

3 A. True.

4 Q. And no one at corporate ever told you that you  
5 should stop admitting residents at any time even when you  
6 did have staff shortages, true?

7 A. Correct.

8 Q. So even when you were getting complaints of  
9 understaffing, you shared those complaints with your  
10 regional team, true?

11 A. True.

12 Q. You shared those were Catherine Ratelle, true?

13 A. True.

14 Q. And she was the vice president at that time, true?

15 A. True.

16 Q. And no one from corporate ever said to you, "Okay,  
17 Nancy, you can stop admitting new residents for a while.  
18 Let's get you some help and get this under control," true?

19 A. True.

20 Q. Every month the expectation was you keep getting  
21 more residents, true?

22 A. True.

23 MS. CLEMENT: Your Honor, at this time I'd like to  
24 play opening clip, page 321, lines 8 through 20. And 323,  
25 lines 24 through line 5 of the next page.

26 THE COURT: Okay. Both from opening?

27 MS. CLEMENT: Yes.

28 THE COURT: Any objection?

1 MR. REID: Not to the first clip, your Honor.

2 Could I get the second clip again. I apologize.

3 MS. CLEMENT: 323, line 24 through 324, line 5.

4 MR. REID: No objection to the second clip, your  
5 Honor.

6 THE COURT: Okay.

7 **(The following video excerpt was then played in open**  
8 **court):**

9 Q. Did you instruct your community relations directors  
10 that worked for you during your administration to continue  
11 to recruit new residents even when there was not sufficient  
12 staff to meet the needs of the residents who were already  
13 in the building?

14 A. The expectation is that we were always recruiting to  
15 have residents move in.

16 Q. And whose expectation was that?

17 A. Regional, divisional. The company. It's just the  
18 expectation.

19 Q. Did you feel pressure from corporate to keep  
20 residents in the facility who were high acuity?

21 A. Yes.

22 **(Video stopped.)**

23 THE COURT: Miss Clement, let's stop and take our  
24 break right now.

25 MS. CLEMENT: Okay. Thank you.

26 THE COURT: Ladies and gentlemen, leave your  
27 notebooks on the chairs. Remember the admonitions. Let's  
28 keep a short break this morning. Please be back ready to



1 go at a quarter to 11:00.

2 We are in recess.

3 You can step down. And be back.

4 THE WITNESS: Your Honor, may I leave my things  
5 here?

6 THE COURT: You can leave everything there.

7 Could counsel approach, please.

8 And we're off the record.

9 (Whereupon an unreported bench conference was then  
10 had in open court between the Court and counsel.)

11 (Recess.)

12 (Change of court reporters.)

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1       **(The following proceedings were then had in open court, in**  
2                   **the presence of the jury:)**

3           COURT ATTENDANT: Please come to order. Department 45  
4 is once again in session. You may be seated.

5           MS. CLEMENT: Thank you, your Honor.

6       Q       (By MS. CLEMENT) I think where we stopped was, um, a  
7 clip about feeling pressure from corporate to keep residents  
8 who were high acuity.

9           Were you familiar with the concept or term or phrase  
10 that Emeritus called "close the back door"?

11       A       Yes.

12       Q       And was that phrase, um, utilized by your bosses in  
13 telling you that you needed to make sure that residents  
14 stayed in the facility?

15       A       Yes.

16       Q       And that was why you felt pressure to keep those high  
17 acuity residents at your facility?

18       A       Yes.

19       Q       High acuity, that means the residents needed more  
20 care; true?

21       A       Correct.

22       Q       And even though, um, Emeritus was telling you to  
23 "close the back door", they were not increasing your  
24 staffing budget; true?

25       A       Correct.

26       Q       And the whole time that you worked for Emeritus you  
27 always felt pressure to prevent move-outs; true?

28       A       True.

1 Q Exhibit 10, your Honor.

2 (Joint Exhibit 10 was marked for identification.)

3 THE COURT: Terrance, can I get 10, please?

4 MS. CLEMENT: May I approach and help the witness,  
5 your Honor?

6 THE COURT: Yes.

7 THE WITNESS: Oh, I'm sorry.

8 MS. CLEMENT: That is okay. You don't have to be  
9 sorry. So there should be a tab. There you go.

10 Q (By MS. CLEMENT) Hi. Just take a second to look this  
11 over.

12 A Okay.

13 Q Now, is this an e-mail that you sent to Doris  
14 Marshall, um, Lisa Hulse, Melissa Malek, your regional sales  
15 and marketing person, and Don Zimmerman, the regional  
16 director of operations, on April 11th, 2008?

17 A Yes.

18 Q And was this regarding, um, residents who were at risk  
19 of move-out?

20 A Yes.

21 Q And Emeritus used another phrase for that as well  
22 called at jeopardy -- "residents at jeopardy"?

23 A Yes.

24 Q And you had to report these, um, potential risk for  
25 move-out residents on a regular basis to the regional and --  
26 and divisional team?

27 A Yes.

28 Q And you weren't actually given the authority in your

1 own building to control move-outs, you had to take it up to  
2 the next level; true?

3 A Um, a move-out could happen whether or not I allowed  
4 it, but I certainly had to notify regional if there was a  
5 risk for that.

6 Q Well, there certainly were some move-outs that were  
7 uncontrollable, right?

8 A Right.

9 Q If a resident died?

10 A Sure.

11 Q And do you remember that you had a budget for  
12 move-outs, that you were told by Emeritus how many move-outs  
13 you could have per month? Does the number 3, 3 and a half  
14 move-outs per month, does that sound familiar to you?

15 MR. REID: It's a compound question, your Honor,  
16 vague.

17 THE COURT: Overruled.

18 THE WITNESS: I don't remember the number, but now  
19 that you say that, I do remember that there was a budget for  
20 how many could move out.

21 Q (By MS. CLEMENT) And you wrote this e-mail to Doris  
22 but you copied Lisa and the rest of the team because at that  
23 time you knew Doris was in some kind of a class and she may  
24 not have had her laptop yet?

25 A Correct.

26 Q Do you remember at that time Doris was new to the  
27 company?

28 A I -- I don't remember when she started, but in the

1 context of this e-mail to say, If you have not had your  
2 laptop yet; yes.

3 MS. CLEMENT: At this time, your Honor, Plaintiffs  
4 would seek to move into evidence Exhibit Number 10.

5 THE COURT: Any objection?

6 MR. REID: No, your Honor.

7 THE COURT: 10 is admitted.

8 **(Joint Exhibit 10 was admitted into evidence.)**

9 MS. CLEMENT: Terrance, could you --

10 Q (By MS. CLEMENT) Now, were there four different  
11 residents that you wanted to bring to Lisa and Doris' and  
12 the rest of the team's attention?

13 A Yes.

14 Q Can everyone read that? Is that big enough? I  
15 apologize, the way it was produced is the right side is cut  
16 off a little bit.

17 So we blacked out the residents' names, but the first  
18 resident was, um, one who felt that she needed more care  
19 than Emeritus could manage; true?

20 A That is what that says, yes.

21 Q Yeah. She felt she could not get the attention she  
22 needs, although she has a history of asking staff to not  
23 tell when she asks for more help, and sometimes she requires  
24 more than two people to assist with transferring; is that  
25 what you wrote?

26 A That is what it says.

27 Q Okay. And, um, the second resident was starting to  
28 need more lifting and less assisting, requiring at times

1 three people to transfer her; is that true?

2 A That is what it says, yes.

3 Q And then the third resident suffered from Parkinson's  
4 disease and had good days and bad, but the good days were  
5 getting fewer and far between; true?

6 A Yes, that is what it says.

7 Q And some days she needs one person to assist her with  
8 transfers and at times needs three to four because she is a  
9 large woman?

10 A I see that, yes.

11 Q Okay. So that means three to four people to help her  
12 transfer?

13 A Yes, that is what I -- I read that as.

14 Q And you wrote, Just for added fun, although not  
15 preventing assisted living care, she has several  
16 hallucinations which are disturbing to her and the staff?

17 A Yes.

18 Q So this resident was living on the assisted living  
19 side?

20 A I can't say for certain in -- in the context of that.  
21 It looks as though, but I don't remember the resident --

22 Q Okay.

23 A -- we are talking about.

24 Q Next. And then this last resident, she was a resident  
25 who was taken to the hospital because her blood sugar was in  
26 the 500s and the Kaiser home health nurse said that she  
27 needs daily dressing changes on her legs with blisters that  
28 were weeping which was an ongoing situation. And you wanted

1 to know, can the facility itself do dressing changes for  
2 this type of situation?

3 A I see that, yes.

4 Q And she was also diabetic and would need to go from  
5 oral medicine to injections, although she could self manage  
6 those at that time, true?

7 A I see that; true.

8 Q And would you have to wait then for a response from,  
9 um, Lisa or someone else on the team to tell you whether  
10 these were residents that you could, um, keep in the  
11 facility or they should move out?

12 A Correct.

13 Q And you don't remember the end result of what happened  
14 there, do you?

15 A I don't. I'm sorry.

16 Q That is okay. When you brought documents to your  
17 deposition you couldn't find anything that included a  
18 response to this; true?

19 A True.

20 Q And when you left Emeritus, um, you didn't have, for  
21 example, your, um -- you didn't take any materials with you;  
22 true?

23 A True.

24 Q You just happened to have the Mary Kasuba letter  
25 because you had e-mailed that to your home e-mail address;  
26 true?

27 A True.

28 MS. CLEMENT: So, your Honor, at this time I would

1 like to play two story board clips from the opening, 348,  
2 line 6 through 9 and line 10 through 13, same page.

3 MR. REID: No objection.

4 THE COURT: All right. Thank you.

5 **(The following video excerpt was then played in open court:)**

6 Q Did you have residents at Emeritus who needed the help  
7 of one or more persons to get out of bed in the Memory Care  
8 Unit?

9 A Yes.

10 Q Did you have residents who needed the help of one or  
11 more persons to get out of bed in the assisted living side  
12 of the facility?

13 A Yes.

14 **(Video stopped.)**

15 Q (By MS. CLEMENT) Of those residents who needed  
16 assistance getting in and out of bed, those residents  
17 included residents who were not on Hospice; true?

18 A True.

19 Q And when you got your training from Emeritus on that  
20 sales and marketing training, did you ever get any training  
21 on, um, what the definition of a bedridden resident was for  
22 Emeritus?

23 A Not that I remember, no.

24 Q Did Emeritus ever train you that, um, residents who  
25 met the definition of bedridden should not be accepted, um,  
26 into their facilities?

27 A Not that I remember, no.

28 Q And do you recall testifying in your deposition that



1 you never knew that a bedridden resident is one who needs  
2 the assistance of one or more persons to get in or out of  
3 bed?

4 A Correct.

5 Q Now, do you remember an incident in the summer of  
6 2007, shortly after you started working at the facility,  
7 where there was a, um, resident who did not receive their  
8 Lasix diuretic medication for eight and a half days?

9 A I do.

10 Q And, um, you reported that to corporate; true?

11 A True.

12 Q Now, do you remember as a result of that, um,  
13 incident --

14 A Uh-huh.

15 Q -- that the resident went on Hospice and died?

16 A I do.

17 Q And do you remember that, um, at that time -- shortly  
18 after that time was when Mary Kasuba's resignation was  
19 accepted?

20 A True.

21 Q And do you remember that that particular resident was  
22 someone that she raised in her letter to corporate?

23 A I do.

24 Q Do you remember Lisa Hulse ever getting involved in  
25 your facility after that episode with the resident who died  
26 as a result of not getting their medication?

27 A I don't remember a specific involvement from Lisa. I  
28 remember that she came to our building. I don't remember if

1 it was to gather records. I do remember that she came for  
2 an audit.

3 Q Okay. Did you ever -- did you ever go through the med  
4 tech training yourself --

5 A No.

6 Q -- at Emeritus?

7 Did you feel qualified to pass medications yourself?

8 A No.

9 Q Did you feel qualified to audit the medication, um,  
10 records that the med techs were completing?

11 A No.

12 Q Did you feel qualified to micro-manage the med room?

13 A No.

14 Q Did Lisa Hulse ever instruct you that she wanted you  
15 to micro-manage the quality services department, including  
16 the med -- medications?

17 A You know, I don't remember that.

18 Q Is that something you would have felt comfortable  
19 doing with your background?

20 A No.

21 Q Can you go to Exhibit 111?

22 THE COURT: Terrance.

23 THE WITNESS: Okay.

24 MS. CLEMENT: This is already in evidence, your Honor.

25 THE COURT: Yes, it is.

26 MS. CLEMENT: Okay. All right. Start at the top,  
27 please.

28 Q (By MS. CLEMENT) Now, the bottom half of this e-mail

1 is an e-mail that you sent to, um, a, um, resident's family  
2 member; true?

3 A I'm sorry, I was reading this. Please repeat.

4 Q That is okay. The bottom half of this e-mail is an  
5 e-mail that you sent to a resident's family member; true?

6 A True.

7 Q And did you copy on a blind cc the e-mail you sent to  
8 the facility to Lisa Hulse and your, um, vice president of  
9 operations, Catherine Ratelle?

10 A I can't see a blind cc, but I may have.

11 Q Okay. Would that have been your practice if you were  
12 responding to a family member who had concerns in writing,  
13 to make sure that the divisional team and regional team knew  
14 about it?

15 A Either that or forward the sent one to them.

16 Q Okay. Did you -- had you ever seen, um -- strike  
17 that.

18 Did Lisa Hulse ever send you this e-mail that she sent  
19 to Budgie Amparo on January 24th, 2008, about the meeting  
20 that the family member was requesting of you?

21 A Not that I remember.

22 Q Do you recall, um, Lisa Hulse coaching you on the best  
23 practice of calling families versus sending them an e-mail?

24 A I don't remember the conversation with her. I do know  
25 that I spoke with her, um, either prior to or after sending  
26 her the e-mail.

27 Q During the course of your tenure at Emeritus were you  
28 told that it would be a best practice not to put things in

1 writing to the family but rather to talk to them in person  
2 or call them on the phone?

3 A Yes.

4 Q And do you remember, um -- and with regard to this  
5 letter, this was the family member who you had a meeting  
6 with with Catherine Ratelle; true?

7 A True.

8 Q And that was an upsetting experience for you?

9 A True.

10 Q And this family member talked about chronic  
11 understaffing and things of that nature with you and  
12 Ms. Ratelle; true?

13 A Many things; true.

14 Q Okay. And as a result of that communication that you  
15 had via e-mail with this gentleman and an -- okay, you can  
16 take that off -- and the sit down that you had with this  
17 gentleman and, um, Ms. Ratelle, did Ms. Ratelle or anyone in  
18 Emeritus Corporate provide you with more staffing for the  
19 facility?

20 A No.

21 Q Now, um, do you have Exhibit Number 87 in front of  
22 you? Is it part of that binder?

23 A No.

24 **(Joint Exhibit 87 was marked for identification.)**

25 MS. CLEMENT: That also has been moved into evidence,  
26 your Honor.

27 Is it okay if we just put it up on the screen?

28 THE COURT: I don't have it as having been admitted

1 into evidence.

2 MS. CLEMENT: Oh, it hasn't been? Excuse me. I'm  
3 sorry. I apologize. I had the wrong number on here.

4 THE WITNESS: Should I get it?

5 MS. CLEMENT: Yes, please. Thanks.

6 THE WITNESS: Okay.

7 Q (By MS. CLEMENT) Is this the letter that you were  
8 directed by corporate to send to Ms. Kasuba?

9 A Yes.

10 Q And corporate told you that, um -- they actually gave  
11 you a template to send to Ms. Kasuba, correct?

12 A Yes.

13 Q And, um, they acknowledged that they had received  
14 Mrs. Kasuba's letter, true, when you talked to them about  
15 Mrs. Kasuba's letter?

16 A Yes.

17 Q Okay. And, um, they advised you to send this letter  
18 to Ms. Kasuba and tell her you were accepting her  
19 resignation and that she was not to return to the building;  
20 true?

21 A True.

22 Q And you thanked -- and you thanked her for her service  
23 and dedication during her employment; true?

24 A True.

25 Q Now, you didn't disagree with the issues that  
26 Mrs. Kasuba raised in her letter, did you?

27 MR. REID: It's overbroad, your Honor.

28 THE COURT: She can answer, if she can.

1           THE WITNESS: I don't remember disagreeing with  
2 anything. I don't recall that I expected her complaints to  
3 be -- or her, um, request to be reasonably accommodated.

4       Q       (By MS. CLEMENT) You felt the things she suggested  
5 couldn't happen because of the budget, right?

6       A       True.

7       Q       And that was in part true because the budget for  
8 staffing was not something that you controlled; true?

9       A       True.

10      Q       And corporate never gave you more money in your budget  
11 for staffing after Mrs. Kasuba's letter; true?

12      A       True.

13      Q       And corporate never gave you registry nurses, nurses  
14 from a temp agency, to come in and, um, pass medications  
15 until the med techs could be trained as complained about in  
16 Ms. Kasuba's letter?

17      A       True.

18      Q       And corporate never told you to stop admitting new  
19 residents until they got the problems raised by  
20 Mrs. Kasuba's letter sorted out, did they?

21      A       Correct.

22      Q       Now, were you required to, um, send reports to  
23 corporate headquarters, um, something called a resident  
24 event tracking summary, or something like that, every time  
25 there was a event, unusual occurrence with the resident in a  
26 facility? You were required to report that to corporate;  
27 true?

28      A       True.

1 Q You were also required to report that to the State;  
2 true?

3 A True.

4 Q And, um, you were the person in the building who  
5 actually filled those documents out; true?

6 A I don't remember if I was the only one that could fill  
7 out the piece that went to corporate. For the licensing,  
8 true, although there still may have been somebody else in  
9 the building that could have done that, but on a regular  
10 day, yes, that was me.

11 Q And you had had some experience before coming to  
12 Emeritus in assisted living; true?

13 A True.

14 Q Before you had your license; true?

15 A Certificate, yes.

16 Q Okay. And, um, you had worked in a facility called  
17 Sunrise down in the Bay Area?

18 A True.

19 Q Okay. And, um, at that facility you had, um -- the  
20 last two months you were there you were like an assistant to  
21 the executive director?

22 A Um, more associate. There was -- there was an over,  
23 um, overseeing executive director on the building, um, but I  
24 was day-to-day filling in for that position.

25 Q You did that for just about two months?

26 A Sounds right.

27 Q And that was before you had your license; true?

28 A Correct.

1 Q And, um, did you ever see the resident event tracking  
2 summaries that Emeritus prepared for your building?

3 A I may have. I -- I don't remember.

4 Q Okay. I will ask you to look at Exhibit 27.

5 A Okay.

6 **(Joint Exhibit 27 was marked for identification.)**

7 Q (By MS. CLEMENT) And does this -- if you turn to the  
8 fifth page in.

9 A Is that this?

10 Q Oh, yeah, you are there.

11 Does this document look familiar to you, the resident  
12 event tracking summaries?

13 A It looks familiar to me. I think that we reviewed it  
14 in deposition. I don't know if I remember it from the  
15 building.

16 Q Okay. Um, taking a minute to look at this, just the  
17 first page, which starts in September of 2007.

18 A Uh-huh.

19 Q This is just for the time period of September 8th  
20 through September 16th of 2007? If you look at the date  
21 section halfway across the page; do you see that?

22 A Yes.

23 Q Okay. And was this all -- the community listed here,  
24 this is all about Emeritus at Emerald Hills; true?

25 A True.

26 Q And you had to report 11 different resident incidents  
27 to corporate in that time period of, I guess that would be,  
28 like a week, eight days?



1 A How would I -- did you say 11?

2 Q Yes. If you count them up. I'm talking about each --  
3 I'm not talking about how many different things happened to  
4 the resident, I'm talking about on each --

5 A Oh, there were 11. There are 11 lines to it, yes.

6 Q Okay. So these things include falls with injuries to  
7 the residents?

8 A Yes.

9 Q And in that time period there were four falls with  
10 injuries for the residents?

11 A Yes, that's what's here.

12 Q And six times in that, um, eight-day period where 911  
13 was called?

14 A Yes.

15 Q If you go to the next page. That's a period of  
16 September 17th through the 26th of 2007?

17 A Yes.

18 Q And, again, there was 911 calls seven times?

19 A Yes.

20 Q And 11 incidents in that time period or 11 different  
21 residents or 11 residents being reported?

22 A Yes.

23 Q And the next page is for September 30th through  
24 December 10th of 2007?

25 A Um, October 10th.

26 Q Oh, excuse me. September 30th through October 10th,  
27 2007?

28 A Yes.

1 Q And we have seven 911 calls then?

2 A Yes.

3 Q And five falls with injuries?

4 A I'm sorry, the heading is not on here.

5 Q It's the fourth column over.

6 A Five?

7 Q Yes.

8 A Yes.

9 Q Was that pretty typical for you as the, um, director  
10 of Emeritus at Emerald Hills to have that kind of number of  
11 incidents that you would have to be reporting to corporate  
12 and the State?

13 A Yes.

14 MS. CLEMENT: At this time, your Honor, Plaintiffs  
15 would seek to move into evidence Exhibit Number 27.

16 MR. REID: No objection, your Honor.

17 THE COURT: All right. Just one second. There is,  
18 um, some discovery documentation on the front of the  
19 document itself, at least in my binder.

20 Do you want that as well as the actual charts?

21 MS. CLEMENT: Yes, your Honor. It's the verification  
22 of the authenticity.

23 THE COURT: All right. 27 is admitted.

24 **(Joint Exhibit 27 was admitted into evidence.)**

25 Q (By MS. CLEMENT) Okay. Now, can you turn to a  
26 completely different binder? Sorry about that. It should  
27 be binder -- probably binder number 1 because it's Exhibit  
28 3.

1 A Okay.

2 Q And this is, to your understanding, the business file  
3 for Mrs. Boice from Emeritus?

4 A That is what it looks like, yes.

5 Q Now, do you remember at all going over the contract of  
6 admission with, um, Eric Boice or the family at all?

7 A I don't.

8 Q Okay. Do you remember meeting Mrs. Boice before she  
9 became a resident at the facility?

10 A I don't.

11 Q Do you know -- remember if there was any kind of  
12 pre-placement appraisal done for her before she came?

13 A Not that I remember, no.

14 Q Okay. Um, do you remember why she was coming -- and  
15 her husband, why she and Myron were moving in?

16 A You know, I don't. I just don't remember. I'm sorry.

17 Q That is okay. Um, so if you turn to page 2 of the  
18 business file, Exhibit 3.

19 A Okay.

20 Q Is this the, um, admission agreement?

21 A The resident agreement starts on -- I have it, but  
22 I -- page 2 starts with, 1, living accommodations.

23 Q Okay.

24 A It looks like it's just a page ahead.

25 Q Oh, okay. What is the real first page of exhibit --  
26 is it page 2 is the first page of the -- oh, I'm sorry, I  
27 should tell you this.

28 Judge, may I approach?

1 THE COURT: Yes.

2 Q (By MS. CLEMENT) Okay. So down here, there is little  
3 page numbers; do you see that?

4 A Okay. I was looking on the resident agreement.

5 Q Yeah, I know. So these are the page numbers we are  
6 talking about there.

7 A Okay.

8 Q No problem. Page 2, is that the first page of the  
9 resident agreement?

10 A Yes.

11 Q Terrance, could you get the lights? Okay.

12 And, um, this was the admission agreement that you  
13 signed regarding Joan Boice?

14 A Correct.

15 Q Okay. And let me ask you this: Did you feel pressure  
16 from corporate to get residents moved in before the end of  
17 the month to meet a move-in quota for each month?

18 A You know, I don't remember specifically that scenario,  
19 but pressure, yes.

20 Q Do you remember there was pressure put on you and the  
21 CRD, the sales and marketing person in the building, that,  
22 um, they, corporate, the regional and divisional and  
23 headquarters, expected you to have a set number of move-ins  
24 each month?

25 A I believe it was worded that way, but what I do  
26 remember was it was a net result to balance move-out versus  
27 move-in.

28 Q Right. You always had to have -- you had to meet this

1 goal of move-ins, which included exceeding what the  
2 move-outs were; true?

3 A Correct.

4 Q Now, was it true that you got pressure from corporate  
5 to collect the money from residents before the end of the  
6 month --

7 A I don't --

8 Q -- for potential new resident?

9 A I'm sorry. I don't remember a specific pressure about  
10 end of month and money collection.

11 Q Okay. Do you remember, um, at all going over the  
12 contract with Eric Boice, Mrs. Boice's son?

13 A I don't remember meeting with him, no.

14 Q Okay. I apologize. Can you turn to page 4?

15 A Yes.

16 Q So, um, this agreement was between Joan and Emeritus  
17 Corporation, the Washington corporation; is that your  
18 understanding?

19 A Yes.

20 Q Okay. Can you turn to page 7?

21 A Okay.

22 Q The things that Emeritus provided as part of the, um,  
23 base core services were planned activities for the  
24 residents?

25 A Yes.

26 Q And you understood that in Emeritus' marketing  
27 materials that they advertised the dementia care unit as an  
28 activities-focused program?

1 A Yes.

2 Q But they did not provide you with an activities  
3 director for that Memory Care Unit; true?

4 A True.

5 Q And you had to rely upon the caregivers to, when they  
6 had time, provide activities for the residents; true?

7 A True.

8 Q Okay. Next page. This is page 8 -- 6 -- 7. Sorry.

9 And then as part of the agreement the staff at the  
10 community would arrange personal transportation for the  
11 residents, including transport to local medical, dental  
12 facilities for an extra fee, correct?

13 A True.

14 Q And they would use the Emeritus van for that?

15 A Yes.

16 Q Okay. And then Emeritus promised to provide  
17 assistance with arranging needed appointments with medical  
18 professionals, health care services, accessing outside  
19 facilities and higher levels of care needs; true?

20 A True.

21 Q And they also would assist residents in accessing  
22 community resources for recreational or social activities  
23 provided outside of the community; true?

24 A True.

25 Q Page 8. And the staff at the community, um, according  
26 to Emeritus, they promise they would observe each resident's  
27 health status, including Joan Boice's, to identify any  
28 dietary, social or health care needs and provide her with

1 consultations regarding social or health-related issues;  
2 true?

3 A True.

4 Q And then Emeritus talked about providing different  
5 level of personal care services depending on the needs and  
6 that was going to be determined before admission to the  
7 facility and that as a result of that evaluation, um,  
8 there -- you understood there was supposed to be an  
9 individualized service plan or care plan created for  
10 Mrs. Boice; true?

11 A True.

12 Q And, um, that the staff were going to re-evaluate  
13 Mrs. Boice regularly to determine the level of services she  
14 needs and -- well, then the -- the, um -- Emeritus was  
15 reserving the right to charge more for those services; true?

16 A True.

17 Q And they were also going to provide additional  
18 services, um, make those available at an extra charge on a  
19 monthly basis; true?

20 A True.

21 Q Page 11. And those -- oh, okay. So next, Erik -- I  
22 don't know why I highlighted that. Okay.

23 So, um -- and this service package, this was just  
24 talking about the money that would be charged to the  
25 resident; true?

26 A True.

27 Q Okay. And it was ensuring that the residents' safety  
28 and well-being and well-being of other residents and legal

1 requirements would be met and they would ensure that by  
2 doing regular evaluations?

3 A True.

4 Q And those evaluations would be done by, if you had a  
5 nurse, a nurse in the building; true?

6 A True.

7 Q 13. And then, um, if a resident were to be -- needed  
8 to be evacuated. Were you trained that if there was a  
9 problem in the facility and there needed to be an evacuation  
10 of it, for say, for fire or, um, maybe there was a  
11 contamination or some kind of a physical plant problem, you  
12 know, dry rot something, that Emeritus would transport the  
13 residents and set them up in a hotel, if necessary? Do you  
14 remember that as part of your initial training?

15 A I don't remember it as part of the training, but I  
16 remember there was a disaster plan and that -- so what you  
17 are saying sounds familiar.

18 Q Okay. Thank you.

19 This is page 16, Counsel.

20 And so did you understand that Emeritus expected that  
21 if there was a primary need of the resident for care and  
22 supervision resulted from dementia or a mental disorder  
23 requiring ongoing -- that resulted in ongoing behavior  
24 problems which would upset other residents or would require  
25 greater amount of care and supervision, that that would be a  
26 reason for transferring the resident out of the facility?

27 A I'm sorry, I'm just -- I'm reading it --

28 Q That is okay.



1 A -- for myself as well. Yes.

2 Q And then -- and you did have residents sometimes that  
3 had behavior problems; true?

4 A True.

5 Q You had residents that, um, had to be evacuated from  
6 the facility on what's called the Welfare and Institutions  
7 Code 5150?

8 A Yeah. I don't remember the incident but it is  
9 something we discussed during deposition.

10 Q Do you remember that resident who got very violent in  
11 the Memory Care Unit and was assaulting other residents and  
12 staff?

13 A Again, I don't remember the incident, but I remember  
14 in deposition reviewing the report that was made by me, so  
15 yes.

16 Q Do you remember that that -- does it refresh your  
17 recollection to know that the resident, after, um,  
18 assaulting other people, then tried to strangle herself?

19 A I remember the -- reading the report that we talked  
20 about during depo.

21 Q And that was a report that you prepared; true?

22 A Correct.

23 Q And, um, you had residents who were at risk for  
24 elopement or wandering out of the facility; true?

25 A True.

26 Q And that is why you had that delayed egress on each  
27 end of the, um, Memory Care Unit, um, that the doors would,  
28 if you pushed them, they would -- it would be a delay of 15

1 seconds before the door would open?

2 A Correct. And an alarm.

3 Q And the alarm would go off?

4 A Yes.

5 Q Now, to get into the Memory Care Unit someone couldn't  
6 just walk straight into that room, they would have to use a  
7 code to get in there; true?

8 A True.

9 Q So if a family came or a resident in a different part  
10 of the facility came and wanted to go in there they would  
11 need to get a concierge or someone to do the code for them?

12 A Or they would have been told in advance if it was a  
13 regular visit.

14 Q Okay. Oh, and then the agreement with the resident,  
15 if they died, the agreement was going to not terminate until  
16 14 days after their death; true?

17 A True.

18 Q So, in other words, if the resident died in the  
19 facility Emeritus would continue to collect rent for two  
20 more weeks; true?

21 A True.

22 Q And then, um, with each of the agreements, including  
23 Joan Boice's, you included or Emeritus included the  
24 statement of the residents' rights; true?

25 A True.

26 Q Can you go to that page, just to appendix E, the  
27 rights?

28 Page 34. So you understood that these were rights

1       afforded to residents under the Title 22 in California?

2       A       Yes.

3       Q       And that was to always be accorded dignity in their  
4       relationship with staff, residents, and other persons?

5       A       Yes.

6       Q       And to be accorded safe, healthful, and comfortable  
7       accommodations?

8       A       Yes.

9       Q       And to have their family or responsible person  
10      regularly informed by the facility of activities related to  
11      their care, including ongoing evaluations as appropriate,  
12      for the resident's needs; true?

13      A       True.

14      Q       And have communications to the facility from the  
15      family and responsible persons answered promptly and  
16      appropriately?

17      A       True.

18      Q       So if a resident's family member had a question, the  
19      resident had the right to have that question answered  
20      promptly?

21      A       True.

22      Q       And appropriately?

23      A       Sure.

24      Q       And in order to -- oh, they also had the right to  
25      receive or reject medical care or other services; true?

26      A       True.

27      Q       Just a few more. Sorry. Thank you. Page 25.

28              And you remember that you signed this agreement on

1 August 29th with Eric Boice?

2 A Again, I --

3 Q Please show her the signature.

4 A Sorry. I don't remember the date, the signing, but  
5 that's -- that's what it shows.

6 Q Is that your handwriting on the date?

7 A On the date, yes.

8 Q Okay. And is that your handwriting there signing on  
9 August 29th of '08?

10 A Yes.

11 Q Okay. Next, Erik, page 28.

12 And this was the appendix B, this was fees for  
13 personal care services and additional charges. Do you  
14 remember this part of the contract?

15 A In general, yes.

16 Q Okay. And do you -- do you have a recollection that  
17 in the agreement it said that the residents could be  
18 provided one-on-one care for an additional charge of 15  
19 dollars per hour? So if they needed care in their room or  
20 escort to their doctor, that that would be part of the  
21 agreement?

22 A I do see that, yes.

23 Q One more. Oh, yes. And what was Mrs. Boice paying to  
24 share a room with another resident at the facility?

25 A I see that the monthly fee for core services was  
26 \$4,625.

27 MS. CLEMENT: Thank you, Ms. Cordova.

28 THE COURT: Mr. Reid?

1 MR. REID: Oh, yes. Thank you, your Honor.

2 Good morning, ladies and gentlemen.

3 REDIRECT EXAMINATION

4 BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the  
5 Defendants:

6 Q Good morning, Ms. Cordova.

7 A Good morning.

8 Q We have never meet either, other than out in the  
9 hallway we shook hands yesterday and today. Thank you for  
10 being here today.

11 A You're welcome.

12 Q I would like to -- I wonder if you could pull from the  
13 notebooks back there Exhibit 5025?

14 A Sure.

15 **(Joint Exhibit 5025 was marked for identification.)**

16 THE WITNESS: Okay.

17 Q (By MR. REID) Okay. Could you tell the jury what  
18 that document is?

19 A This is the resume that I submitted during deposition.

20 Q Um, and what was the date of the deposition?

21 A Our first deposition, I -- I don't remember.

22 Q Okay.

23 A I have not made changes to it since.

24 Q Okay. Let me show you --

25 MS. CLEMENT: It's right on the exhibit tab.

26 Q (By MR. REID) I think it might be on that tab there.  
27 Do you see it there?

28 A No.

1 MR. REID: May I approach the witness, your Honor?

2 THE COURT: Yes.

3 MR. REID: Oh, it's covered up. That is why.

4 MS. CLEMENT: Do you want to show her my copy?

5 MR. REID: Sure. Thank you. There we go.

6 THE WITNESS: Thank you.

7 Q (By MR. REID) Um, does that refresh your memory as to  
8 the date of the deposition, the first deposition?

9 A I don't remember exactly, but I do remember it was the  
10 summer of 2011.

11 Q All right. And, um, the resume that you brought to  
12 your deposition in the summer of 2011, was it complete,  
13 accurate, and up-to-date?

14 A Yes.

15 MR. REID: Your Honor, I would offer Exhibit 5025 into  
16 evidence.

17 THE COURT: Any objection?

18 MS. CLEMENT: Just that it goes past the date of  
19 her -- it's fine.

20 THE COURT: All right. Any objection is overruled.  
21 5025 is admitted.

22 **(Joint Exhibit 5025 was admitted into evidence.)**

23 MR. REID: May we display that to the jury, your  
24 Honor?

25 THE COURT: Yes.

26 Q (By MR. REID) Um, what page on the resume is your  
27 employment referenced on, Ms. Cordova? I mean, not your --  
28 your education? I apologize.

1 A 3.

2 Q Okay. Can we go to page 3, please?

3 Okay. Could you tell the jury about your, um,  
4 educational background?

5 A Sure. Um, starting from the beginning, bachelor of  
6 arts in human development. And that was at Cal State  
7 Hayward. It has a different name now.

8 Do you want me to elaborate on that?

9 Q Yeah. Let's talk about what that -- what's -- your  
10 degree in human development, what is that?

11 A Okay. That encompassed, um, all aspects of a human's  
12 development, um, in biological terms, neurological,  
13 sociological, etcetera.

14 And then moving on to San Francisco State University,  
15 got a second bachelor's degree in biology, a bachelor of  
16 arts.

17 Would you like me to explain --

18 Q Sure.

19 A -- anymore about that?

20 Q What is biology? My biology teacher would say I need  
21 to know that.

22 A Study of life. And that was a shorter program for me  
23 because I had already done a previous bachelors, so for the  
24 most part that was upper division biology course work.

25 Q Okay. And you -- you obtained a bachelor's degree in  
26 2000?

27 A Yes.

28 Q Am I reading that right?

1 A Yes.

2 Q And then you also have a advanced degree, correct?

3 A Correct. Master of arts in gerontology.

4 Q Where did you obtain that education?

5 A Notre Dame de Namur University. At the time I began  
6 there it was, um, College of Notre Dame and underwent a name  
7 change and transitioned into the university system.

8 Q Okay. What, um -- well, first of all, how long was  
9 that program?

10 A Oh, you know, I don't -- I'm sorry, I don't remember.  
11 I know I spoke about it in deposition. I think it was two  
12 years approximately.

13 Q All right. And you obtained a master's degree --

14 A Correct.

15 Q -- in 2003?

16 A Correct.

17 Q Can you tell the jury what a masters of arts in  
18 gerontology entails?

19 A Um, course work in all things geriatrics. So, um --

20 Q What is geriatrics?

21 A Geriatrics is the study of, um, an aged individual.  
22 So it would study pathology, so um, any mental, um,  
23 illnesses that could come as a person ages. Um, oh, I'm  
24 sorry, it's been a long time since I have described my  
25 education.

26 Q That is okay.

27 A Um, different theories of aging, different theories of  
28 development. Um, a great deal of individuals from --



1 professionals from, um, the industry of those working in  
2 geriatrics to come in and speak with us, um, from time to  
3 time.

4 So is that enough?

5 Q Yes. So study of, um, aging -- an aged population,  
6 elder generation?

7 A Correct.

8 Q What draw you to -- what drew you to that study?

9 A I have always loved seniors and taking care of them.

10 Q All right. While you were getting your master's  
11 degree were you also working?

12 A I was.

13 Q What were you doing at that time?

14 A Um, when I first began --

15 Q Let's see. Can you pull out for us, Ms. Ford?

16 Um, I will tell you what, let's have you talk and we  
17 will take the resume down and we will pull that up later,  
18 okay?

19 A Okay.

20 Q Just tell us what you were doing when you were getting  
21 your degree?

22 A When I first began my degree program I was still  
23 working for, um, a physical therapy company, and shortly  
24 after I started my master's program I became employed by the  
25 university where I was studying and I was the assistant to  
26 the president at the university.

27 Q All right. And what was your first job then in --  
28 that had any relation to either health care or long-term

1 care?

2 A Um, health care would have been my work in -- I'm  
3 sorry -- in physical therapy because it was my first  
4 interaction with, um, the health care field in general.

5 Q What did you do, um, in physical therapy?

6 A When I first started with the physical therapy company  
7 I was a physical therapy aide. So that's somebody who  
8 assists the -- the physical therapist with various  
9 modalities, exercises, and so forth. And then while I was  
10 in school doing the second bachelor's, um, I worked for them  
11 part-time also in -- in the billing office and working on  
12 the Medicare billing.

13 Q Okay. Now, as a physical therapy aide, does that  
14 require any special certification or anything?

15 A No.

16 Q And what -- what would you be allowed to do as a  
17 physical therapy aide?

18 A You would be allowed to assist with modalities and  
19 that would be something that was a therapeutic comfort  
20 measure for, um, a client. So that could be, once the  
21 therapist was done doing what he or she was doing, um,  
22 assist with putting ice on somebody, putting heat on  
23 somebody, um, there would be an ultrasound that, um, could  
24 help deliver heat. We could also be taught and then teach,  
25 um, exercises and stretches.

26 Q After the physical therapy experience what was your  
27 next involvement in either health care or long-term care?

28 A Then I was employed by Sunrise Senior Living.

1 Q And where was that?

2 A That was in Belmont, in the Bay Area.

3 Q What positions did you hold at Sunrise?

4 A The assisted living coordinator and that was for the  
5 entire time. And then during my time there I also became  
6 what's known as a support mentor which would assist with  
7 training of other individuals. And then for the last, um --  
8 for a couple of months during my time there I was, and I  
9 can't even remember if it was specifically called associate  
10 or assistant, but executive director in the absence of the  
11 executive director in the building.

12 Q Could we pull up the Sunrise portion of the resume,  
13 Exhibit 5025?

14 Is it page 2?

15 A Yes.

16 Q Okay. So you were working at Sunrise, um, it looks  
17 like, almost two years?

18 A Yes.

19 Q Um, and how large was that community that you were  
20 working in?

21 A I remember it -- sometimes it's referred to in terms  
22 of number of beds, but it was close to 90 beds.

23 Q Okay. Um, and what we see on this screen here on your  
24 resume, is that a good description of the responsibilities  
25 that you had at the time you were working at Sunrise?

26 A Yes.

27 Q Now, it says, I was responsible for all non-medical  
28 care of our residents and families.

1 A Uh-huh.

2 Q I don't -- did Sunrise provide medical care?

3 A I think it would depend on how you defined that  
4 because a wellness office could work in conjunction with  
5 doctor's orders to assist with medications, and I consider  
6 that medical.

7 Q Okay. So when we are talking about wellness office in  
8 this setting, are we talking about a nurse, a licensed  
9 nurse?

10 A Correct.

11 Q All right. You would set up plans of care with the  
12 community nurse for the residents?

13 A True.

14 Q And maintained relationships with residents and  
15 families, um, kind of along the lines of what you talked  
16 about; true?

17 A True.

18 Q Supervised team of care assistants, including hiring,  
19 training and coaching --

20 A Yes.

21 Q -- right?

22 Can you tell us about your experience doing that at  
23 Sunrise?

24 A Sure. Um, supervising the care team meant that I was  
25 their direct supervisor and so I would -- I -- I can't  
26 remember how on a day-to-day basis, but basically put  
27 systems in place for them to follow care plans, um, follow  
28 instruction based on our policies and procedures. Um, I

1 participated in the hiring because I certainly did the --  
2 the interviewing and, um, the training. I did participate  
3 in the Sunrise series of training and coaching, whether it  
4 was, um, evaluations, day-to-day instruction or more formal,  
5 um, performance coaching.

6 Q Okay. And you talked about, um, you had -- you  
7 conducted management level training or participated in it.  
8 Tell us about that.

9 A Both. But conducted management level training, and  
10 that's what I spoke to, um, briefly as being a support  
11 mentor, that I received some training on how to deliver, um,  
12 support to other managers within the region.

13 Q So if -- would -- would that mean that you would go to  
14 other Sunrise Senior Living communities and meet with other  
15 assisted living coordinators and kind of mentor them in  
16 their jobs?

17 A Yes. And that would be one example of how that would  
18 happen.

19 Q Got ya. Then the next one is you would conduct sales  
20 calls to new and existing referral sources, including cold  
21 calls, scheduled calls, and recovery calls. What does that  
22 mean?

23 A Um, the whole line? Every manager in the community  
24 was really responsible for a piece of marketing and so it  
25 was expected, since my department was our assisted living  
26 department, it was the largest, and it was, um -- it spoke  
27 to how we would care for a resident, um, that it was  
28 expected that I would, um, make myself known in the

1 community. So if there were contacts out there, if people  
2 had questions about what we did and how we did it, they  
3 would know to talk with me.

4 Cold calls means dialing up somebody or visiting  
5 somebody that wasn't expecting me.

6 Scheduled call obviously would be something that I had  
7 arranged to meet with somebody.

8 A recovery call would be a call either in person or by  
9 phone for, um, something that didn't go well. Somebody was  
10 upset, there was some type of a misunderstanding, so  
11 basically to be making contact to recover that situation.

12 Q All right. Was it communicated to you that that  
13 was -- those activities were a important part of your job?

14 A Yes.

15 Q And, um, were you told why?

16 A I don't remember specifically being told why, but I --  
17 I -- I know why.

18 Q What was your understanding of why that was an  
19 important part of your job?

20 A That is marketing and that's to maintain a high  
21 occupancy level in a building.

22 Q So while you were working at Sunrise, um -- let me ask  
23 it a different way.

24 Did -- as -- as -- as a manager at Sunrise, what were  
25 your expectations in terms of, um, meeting occupancy goals?

26 A Always full.

27 Q And was that offensive to you?

28 A I don't know if I would say offensive.

1 Q What is your reaction when people at Sunrise say --  
2 give an expectation of let's fill the building?

3 A Depending on who was saying that to me and my rapport  
4 with them, it might be, well, tell me how, or I could say,  
5 um, I'm not sure that is a reasonable request right now.

6 Q Okay. The last bullet point is participate in inside  
7 sales to ensure a fully occupied community. What does  
8 "inside sales" mean?

9 A Inside sales would refer to, um, somebody coming to  
10 the building to have a visit, do a tour, and discuss the  
11 possibility of moving in. And so any manager, myself  
12 included, would have to respond to that, if somebody dropped  
13 in, if the marketing individual was not available.

14 Q All right. Now, I think the next one, the next job up  
15 is, um, your next role in health care, right?

16 A Correct.

17 Q And, um, could you -- what was your next role in  
18 health care after you left Sunrise in September 2004?

19 A Marketing representative for Vitas.

20 Q Let me ask you this -- back up just a second. Why did  
21 you leave Sunrise?

22 A I had always wanted to work in Hospice care and not  
23 being an actual clinician, um, really didn't think there was  
24 an opportunity for that until I actually read about this  
25 opportunity and it was a great opportunity, so I took it.

26 Q Okay. Can you -- can you tell the jury what is  
27 Hospice care?

28 A Sure. Hospice care is it's end-of-life care and it's,

1 um, designed to provide comfort, um, for somebody for whom  
2 there really is no more treatment or cure option and -- or  
3 there may be but this individual has really selected to stop  
4 treating and to stop trying to cure and to just be  
5 comfortable. Hospice care is put in place to allow somebody  
6 to be at home, wherever home is, so that could be a skilled  
7 nursing facility, assisted living, or at home, um, designed  
8 to prevent repeat trips to the hospital and to just be  
9 comfortable at home with health care professionals coming  
10 into the home to provide that care.

11 Q And, um, is there some determination that has to be  
12 made in order for one to qualify for Hospice care?

13 A Yes.

14 Q What's that?

15 A Well, there -- there are requirements for Hospice care  
16 to be engaged and that requirement would be a physician's  
17 order to evaluate for Hospice. And then to start Hospice,  
18 that would be for two physicians to agree that a person's  
19 condition is terminal. And terminal would be a prognosis of  
20 six months or less. Along with that there would be, um,  
21 meeting the appropriateness criteria as set out by Medicare  
22 because it's a Medicare program, so Medicare guidelines for,  
23 um, appropriateness for Hospice.

24 And so based on all of that, along with a person's  
25 goals for care being comfort-driven not curative, that would  
26 be somebody who is eligible for Hospice care.

27 Q Um, and if you could -- you worked for, um -- you  
28 worked as a marketing representative for Vitas Innovative



1 Hospice, it looks like, for about, um, two and a half years?

2 A Correct.

3 Q And, um, just very briefly, we won't go through all of  
4 the bullet points, but what were you -- what was your job  
5 there?

6 A My job there was to help generate new referrals and  
7 provide the educational support of what Hospice is and how  
8 it works for assisted livings and skilled nursing facilities  
9 in the area.

10 Q Then, um, when did you do your studies to become a  
11 certified Residential Care Facility for the Elderly  
12 administrator?

13 A I don't remember the exact date but it was while I was  
14 still with Vitas in Petaluma. Um, I left the Petaluma  
15 office in 2006, so I -- I believe it was the early part of  
16 2006.

17 Q All right. And, um, so would you mind telling -- I  
18 just used this word "Residential Care Facility for the  
19 Elderly." Can you tell the jury what that is?

20 A Sure. My understanding is that that is a California  
21 term because anywhere else, um, in the country that is a  
22 facility that is referred to as an assisted living facility,  
23 ALF. Residential Care Facility for the Elderly, um, in  
24 California is used synonymously with that.

25 Q And, um, what is involved in becoming a certified  
26 administrator so that you can run an RCFE?

27 A There is a 40-hour class that is typically done  
28 over -- over the course of a week, um, in a classroom

1 setting. There is a test and then just based -- and I don't  
2 remember the exact guidelines, but based on the size of the  
3 building you are seeking to be an administrator, a certain  
4 level of -- or a certain history of, um, schooling and  
5 experience.

6 Q Okay. While -- what are you studying in that 40-hour  
7 course to be an RCFE administrator?

8 A Title 22. Um, lots of questions. Um, while many --  
9 well, there certainly were other administrators or potential  
10 administrators like I, there were also board and care  
11 administrators, which are the smaller facilities. So a lot  
12 of questions kind of one-on-one with the instructor.

13 Q We have heard Title 22. Are you able to tell the jury  
14 what that entity is, Title 22?

15 A You know, I'm not sure that I could say it very  
16 eloquently. It is -- it is a portion of, um -- I could just  
17 be saying this wrong -- of a handbook from Department of  
18 Social Services that oversees, um, and puts in guidelines  
19 for or regulations for, um, all types of human services.

20 Q Okay. In that 40-hour course what kinds of things do  
21 you learn? What do you need to know to be an RCFE  
22 administrator?

23 A It's -- from what I remember it was each day we took a  
24 section of Title 22 and reviewed it with opportunity for  
25 question and answer.

26 Q During your course of study to become an RCFE  
27 administrator, did you do any review or study of, um, people  
28 who would be eligible to live in an RCFE assisted living?

1 A So I don't remember obviously every specific day, but  
2 that is something that is outlined in 22, so it -- I expect  
3 we would have gone over that.

4 Q Okay. If -- if something is set forth in Title 22  
5 concerning the operation of -- of an assisted living  
6 facility, would that have been something you studied in the  
7 course of this 40-hour training?

8 A Yes.

9 MS. CLEMENT: Leading.

10 THE COURT: Sustained.

11 Q (By MR. REID) Um, did you -- did the -- what portions  
12 of Title 22 that relate to the operation of RCFEs did you  
13 study in this 40-hour course?

14 A Honestly, I haven't looked at Title 22 in years so I  
15 just don't remember. I don't remember it.

16 Q I'm not asking you to list them all out. Let me ask  
17 it in a different way.

18 Were there any portions of Title 22 that relate to the  
19 operation of a Residential Care Facility for the Elderly  
20 that you didn't study in that course?

21 A I -- I can't say for sure. It's -- I mean, it was a  
22 course that was offered and it was, um -- it was the  
23 appropriate course to take. So I -- I would expect that  
24 they covered what I needed to know to complete the test and  
25 get the certificate.

26 Q When you finished the course of study, um -- I will  
27 strike that.

28 Let's, um -- what caused you to do the studies? Was

1     there a test you had to take -- sorry to interrupt myself  
2     there.

3             Did you have to take a test to become a certified  
4     administrator?

5     A       Yes.

6     Q       Okay. And, um, what caused you to do that studies and  
7     take that test?

8     A       Um, well, two things. One is given that part of my  
9     role with Vitas had to do with educating assisted livings I  
10    thought that would certainly be helpful in the work that I  
11    was doing, and I hadn't completely closed the door on  
12    seeking more work with assisted living in my future.

13    Q       Okay. Tell us a little bit more about when you were  
14    working for Vitas, what was your relationship with these  
15    assisted livings?

16    A       Um, while I would visit them I would get to know  
17    the -- usually the managers, the administrators. Um, they  
18    may have questions about Hospice appropriateness, um, and so  
19    I would help guide them on identifying people that may be  
20    appropriate, um, and also just how Hospice worked in the  
21    building and provide some support to them in that way.

22    Q       Okay. How did -- how does Hospice work in the  
23    building, assisted living?

24    A       Um, it -- what it does is it provides another layer of  
25    support.

26    Q       Okay.

27    A       It does not replace a primary caregiver. And in a  
28    setting like this, an assisted living, um, a primary

1 caregiver would be the assisted living but it's supplemental  
2 care. And it's, um -- it's -- Hospice would be available  
3 for either the family, the resident, or the -- the staff to  
4 call 24 hours a day for -- for anything. And that might not  
5 mean that somebody comes out but it would be to report that  
6 something has changed or something is going on, they needed  
7 some guidance, um, and Hospice could lend support to that.  
8 So -- but case management within the assisted living.

9 Q Now, are assisted living communities medical  
10 facilities?

11 A No.

12 Q Um, are Hospice providers, are they medically oriented  
13 providers?

14 A Yes.

15 Q Okay. Let's take a look at, um, the next job on your  
16 resume here. I think this is -- is this describing your  
17 role as the, um, administrator or executive director at, um,  
18 Emerald Hills?

19 A Yes.

20 Q Okay. And you say you were responsible for the  
21 operational success of the community. How do you define  
22 operational success?

23 A It is a catch-all for everything. Operations  
24 oversees -- it's -- it's success of the building  
25 financially, success of the building with response to --  
26 with regard to your audits, both internal and external, um,  
27 and I think that really would sum it up.

28 Q Okay. The first bullet point says, Create annual,

1 quarterly and monthly strategic plans to ensure growth and  
2 customer satisfaction. How does customer satisfaction  
3 relate to success of the community?

4 A Anybody working in that industry is there to do a  
5 service and customer satisfaction would be a positive  
6 outcome and -- and the goal for anybody working in that  
7 industry.

8 Q Anyone working in that industry is there to provide a  
9 service, is that what you said?

10 A And -- and a good service, yes.

11 Q Okay. What is that good service? Define that for us.

12 A Um, it's -- it's a huge definition. It's, um,  
13 residents that are happy, it's, um, it's a -- residents that  
14 are satisfied.

15 Q Okay. Um --

16 THE COURT: Mr. Reid --

17 MR. REID: Yes.

18 THE COURT: -- we need to stop.

19 MR. REID: Okay.

20 THE COURT: Ladies and gentlemen, leave your notebooks  
21 on the chairs. Remember the admonitions. I'll see you at  
22 1:30. We are in recess.

23 I need you back at 1:30.

24 THE WITNESS: Okay. Thank you.

25 (Lunch recess.)

26 ---oOo---

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28

1 WEDNESDAY, JANUARY 16, 2013

2 AFTERNOON SESSION

3 ---o0o---

4 The matter of JOAN BOICE, by and through her  
5 Successor-in-Interest, ERIC BOICE, and ERIC BOICE, NANCEE  
6 BOICE, and MARK BOICE, individually, Plaintiffs, versus  
7 EMERITUS CORPORATION dba EMERITUS AT EMERALD HILLS,  
8 Defendant, Case Number 34-2009-00063714, came on regularly  
9 this day before Honorable JUDY HOLZER HERSHER, Judge of the  
10 Superior Court of California, for the County of Sacramento,  
11 Department 45.

12 The Plaintiffs, JOAN BOICE, by and through her  
13 Successor-in-Interest, ERIC BOICE, and ERIC BOICE, NANCEE  
14 BOICE and MARK BOICE, were represented by LESLEY A.  
15 CLEMENT, Attorney at Law; VALERIE DAWSON, Attorney at Law  
16 (not present); ASHLEY BAIRD, Attorney at Law; and SEAN  
17 LAIRD, Attorney at Law (not present).

18 The Plaintiffs, ERIC BOICE and MARK BOICE were  
19 present.

20 The Defendant, EMERITUS CORPORATION dba EMERITUS AT  
21 EMERALD HILLS, was represented by BRYAN R. REID, Attorney  
22 at Law; RIMA BADAWIYA, Attorney at Law; and KIM M. WELLS,  
23 Attorney at Law (not present).

24 Also present on behalf of the Defendant, EMERITUS  
25 CORPORATION dba EMERITUS AT EMERALD HILLS, was JANET E.  
26 McKINNON, Vice President of Legal Affairs; LISA HULSE, Vice  
27 President Quality & Risk Management; and HOLLY A. FORD,  
28 Trial Consultant.

1           **(The following proceedings were then had in open**  
2 **court, in the presence of the jury.)**

3           THE COURT ATTENDANT: All rise.

4           Department 45 of the Sacramento Superior Court is  
5 now in session. The Honorable Judge Judy Hersher  
6 presiding.

7           You may be seated.

8           THE COURT: Go ahead, Mr. Reid.

9           MR. REID: Thank you, your Honor.

10          Good afternoon, ladies and gentlemen.

11                           TESTIMONY OF

12 NANCY CORDOVA, a witness's called pursuant to 776 of the  
13 Evidence Code by the Plaintiffs:

14                           REDIRECT EXAMINATION (continued)

15 BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the  
16 Defendants:

17 Q.       Miss Cordova. Let's finish looking at your resume  
18 real quick and then we'll push ahead.

19       MR. REID: That's Exhibit 5025, Miss Ford.

20 Q.       (By MR. REID) We're talking about your role at  
21 Emeritus Senior Living. So it's page two. And the top box  
22 there.

23       Okay. So we talked about the operational success.  
24 Let me ask you, the -- how long did you work there? It was  
25 about two years, two-and-a-half years?

26 A.       June of 2007 through December of 2008. So that's  
27 just about a year-and-a-half.

28 Q.       A year-and-a-half. Okay.



1           How do you measure it? Do you think you oversaw a  
2           successful operation?

3           A.       I think there were good days and bad. I think --  
4           you know, to answer that sitting here today, in retrospect,  
5           this is certainly not something that I would have wanted to  
6           see happen, to talk about what we're talking about today.  
7           But, in general, I felt that I had happy residents. And  
8           while some days were very difficult, some days I left very  
9           fulfilled, knowing that I had just done a good job and did  
10          my best.

11          Q.       Sure. And when you're talking about being here,  
12          talking about being a witness in a lawsuit and -- is that  
13          what you mean about --

14                 MS. CLEMENT: Leading.

15                 THE COURT: Sustained.

16          Q.       (By MR. REID) Okay. When you say you -- you have  
17          regrets about this circumstance, what are you talking  
18          about?

19          A.       Well, I don't believe I said I had regrets.

20          Q.       Okay. Sorry. I --

21          A.       But certainly while I wouldn't classify this as a  
22          pleasant experience for me, what I was speaking more to is  
23          the fact that something unfortunate may have happened that  
24          is certainly not something I would feel good about.

25          Q.       Sure. And -- so let's -- we'll move on. Thank you.

26          A.       Okay.

27          Q.       You were asked some very general questions before  
28          about hearing complaints about understaffing.

1 A. Mm-hmm.

2 Q. Can you explain to the jury what those complaints  
3 were and when you heard them.

4 A. Well, I think I've said before that I don't remember  
5 specific conversations. I do recall, in general, that that  
6 was a concern that was raised. And I don't know if I could  
7 speak in any more detail than that about the nature of that  
8 complaint.

9 Q. Okay. As we look at your 18 months there at  
10 Emerald Hills, were the staffing challenges that you had,  
11 were they throughout the entire stay, or was there a period  
12 of time where that was a concern you were addressing?

13 MS. CLEMENT: Leading.

14 THE COURT: Sustained.

15 Q. (By MR. REID) Was there a particular point in time  
16 of your 18 months where staffing was a challenge for you?

17 MS. CLEMENT: Leading.

18 THE COURT: She can answer.

19 THE WITNESS: What I do remember is that when I  
20 initially started at Emerald Hills that there -- there were  
21 staffing challenges. I don't recall that being a concern  
22 or an issue throughout my time there, but I do remember  
23 walking into that situation.

24 Q. (By MR. REID) Okay. And when you say staffing  
25 concern, can you define that for the jury?

26 A. Sure.

27 Q. What was the concern?

28 MS. CLEMENT: Objection; it's vague as to time.

1 THE COURT: I think the time frame is when she was  
2 there. Eighteen months.

3 Go ahead.

4 Q. (By MR. REID) Well, let me clarify that.

5 Because you mentioned a staffing concern at the  
6 beginning of your employment at Emerald Hills, right?

7 A. Yes.

8 Q. Okay. And that -- do you remember having similar  
9 concerns, let's say -- let's focus on the time that Peggy  
10 Stevenson was your resident care director.

11 A. Okay.

12 Q. Do you remember having staffing concerns once she  
13 got involved?

14 A. I don't remember staffing issues like that  
15 throughout. What I was describing was more at the  
16 beginning of my time there.

17 Q. Okay. So tell the jury what that challenge or that  
18 concern was.

19 A. At the beginning?

20 Q. Right.

21 A. Okay. That is that the number of staff on roster,  
22 so the number of staff employed, is not the number of staff  
23 that was allotted.

24 Q. Why was that a challenge or a concern?

25 A. Because that -- that would mean there weren't enough  
26 staff to fill every position that was available.

27 Q. Does that mean that in the early part of your  
28 employment that you didn't have enough staff on the floor

1 taking care of people?

2 MS. CLEMENT: Leading.

3 THE COURT: Sustained.

4 Q. (By MR. REID) Was the problem with the roster when  
5 you arrived at Emerald Hills affecting resident care?

6 MS. CLEMENT: Leading.

7 THE COURT: She can answer.

8 THE WITNESS: You know, not that I remember.

9 Q. (By MR. REID) What was the problem that you  
10 encountered because of the roster challenge?

11 A. It was more that the problem was identified because  
12 we had a situation of people working overtime to cover  
13 shifts that were not covered due to vacancies.

14 Q. Okay. And why is that a problem?

15 A. It wouldn't make sense to routinely run a building  
16 utilizing overtime.

17 Q. So once you got involved and became the executive  
18 director at Emerald Hills, did you do anything to try to  
19 address that problem?

20 A. We tried to hire staff, consistently.

21 Q. Okay. And did you have success?

22 A. At times, yes.

23 Q. Okay. By the time that Peggy -- do you happen to  
24 recall when Peggy Stevenson became your resident care  
25 director?

26 A. You know, I don't know the exact date. I have --  
27 mostly from all of these conversations -- a recollection of  
28 a window of time that she started there. But I don't

1 remember.

2 Q. Okay. Give us the best window you can, if you can.

3 A. I believe it actually came up today, unless I'm  
4 mistaken, that it was sometime in March of 2008.

5 Q. Okay. So let's focus on that time frame then.

6 Do you have memories of -- from 2008, from the time  
7 Miss Stevenson started with you through the remainder of  
8 your duration at Emerald Hills -- of having those staffing  
9 challenges that you just described to the jury?

10 A. As a whole period of time, no. It was something  
11 that was really marked by my start there.

12 Q. You were asked some questions about -- about  
13 Miss Kasuba and her letter. And -- as you sit here, was  
14 Miss Kasuba completely off base with her concerns?

15 A. I don't believe so. It was a very detailed, long  
16 letter, but the nature of it I felt I understood.

17 Q. Okay. Did -- did you do anything in response to  
18 those concerns raised by Miss Kasuba?

19 A. Sure.

20 Q. What did you do?

21 A. I spoke with my regional team and my corporate team,  
22 gave them the letter and waited for response and action.

23 Q. Okay. Was action taken to address the concerns  
24 that -- that had been identified?

25 A. I don't know if the action that was taken was  
26 directly from the letter. But shortly thereafter, there  
27 was an audit done of the building, and that may have been.

28 Q. Okay. As you sit here now, do you have a memory of

1 some of -- well, first of all, let me ask you, were there  
2 any changes made after the letter, around the time of the  
3 audit?

4 A. Changes that were prompted by the audit --

5 Q. Okay.

6 A. -- yes.

7 Q. What kind of changes do you recall being  
8 implemented? Are we talking now about the end of 2007?

9 A. Yes.

10 Q. Okay. What changes do you remember being  
11 implemented at that time?

12 A. The biggest change was a move of the medication room  
13 to a bigger space, with more room for organization.

14 As I sit here today, I can't say if it's -- that I  
15 remember it from then or -- more likely from deposition;  
16 that there were other items in Mary's attachments that  
17 spoke to processes that she was putting in place. But I  
18 just don't know for sure.

19 Q. Okay. If you have a memory, thinking back to let's  
20 say when Miss Stevenson started in 2008, do you have a  
21 recollection of having a sense of whether you had  
22 adequately addressed the concerns raised by Miss Kasuba or  
23 whether there were still lingering problems?

24 A. You know, I don't remember. I can't remember -- for  
25 the most part, yes. And the most urgent matters, yes. But  
26 I just don't remember if everything was resolved by the  
27 time she got there.

28 Q. Okay. There's also this letter that Miss Clement

1 asked you about in early 2008, from a family member, a son  
2 of a resident.

3 Do you recall that?

4 A. Yes.

5 Q. Okay. And you testified earlier that that was a  
6 difficult circumstance for you.

7 A. Yes.

8 Q. Can you tell the jury about that experience.

9 A. About the whole experience, or why it was difficult  
10 for me?

11 Q. Okay. Why was it -- why was that difficult for you?

12 A. That was difficult because I felt -- and, actually,  
13 it was shown during the resulting meeting that the  
14 information that the family had was not accurate. And --  
15 and I should say not accurate in terms of what the real  
16 frustration of the letter was, which was a lack of response  
17 from me, which was false.

18 And the meeting -- I felt very attacked personally.  
19 And I think I've mentioned -- I'm sorry. I think I've  
20 mentioned earlier that this work is very important to me,  
21 and I designed my whole course of study around serving the  
22 elderly. And so to have somebody attack me and my care and  
23 my integrity over how I would do this job hurt. And it  
24 was -- it was just wrong. And I don't know another way to  
25 say than I just -- I felt attacked. And everything that I  
26 have done in my academic and professional life has led me  
27 to the jobs that I have then come to have. And they are so  
28 much more than jobs for me. They really are my calling and

1 my life. And to sit in a meeting after having been  
2 attacked in a letter and then be attacked face-to-face was  
3 just more than difficult. And the outcome of the meeting  
4 was --

5 MS. CLEMENT: Your Honor, I think it's narrative at  
6 this point.

7 THE WITNESS: I'm sorry. Sorry.

8 Q. (By MR. REID) I'll ask another question. Are you  
9 okay?

10 A. Yes.

11 Q. Okay. What was the outcome of the meeting?

12 A. Concerns were addressed. The frustration of the  
13 lack of response from me was clarified, because I did  
14 respond and I responded very quickly. And it was a very  
15 amicable end to our meeting and, as I recall, a very  
16 amicable relationship and rapport that continued throughout  
17 my time there with both family and resident.

18 Q. Do you have a memory of whether the resident -- the  
19 resident who was the subject of the letter was still living  
20 there when you left?

21 A. Yes, he was.

22 Q. Okay. I want to talk a little bit about the budget.  
23 Okay?

24 A. Mm-hmm.

25 Q. Now, you testified that the 2007 budget was in place  
26 when you got there because you came in a little later in  
27 the year.

28 A. Correct.



1 Q. You played a role in developing the 2008 budget?

2 A. Yes.

3 Q. Can you tell the jury what that role was.

4 A. It was a collaborative role. I was to bring my --  
5 my feedback to a meeting, to really sit down and discuss  
6 what -- what our numbers are. And "numbers" meaning what  
7 the occupancy was, what the census was. And we would go  
8 through that type of information. What was very much a  
9 discussion were capital expenses, such as -- large items  
10 for purchase. And those were things that needed to be put  
11 into the budget. And so if I knew ahead of time that I  
12 needed something big, I had to ask for it at that point.

13 Q. Okay. When -- when -- if you recall, about when did  
14 you start collaborating on the 2008 budget?

15 A. You know, I don't remember. I'm sorry.

16 Q. Once you -- once the budget was completed, was  
17 there -- was there times during the year where it would be  
18 revisited and amended?

19 A. Not that I remember. More that it would be kept for  
20 discussion for the following year's budget.

21 Q. Okay. And when you're -- when you're preparing a  
22 budget, what are you doing in terms of considering the next  
23 year, if you follow me?

24 MS. CLEMENT: It's vague. Lacks foundation.

25 THE COURT: I think she can answer.

26 THE WITNESS: I think I need to hear that again.

27 Thank you.

28 Q. (By MR. REID) Okay. What are you trying to -- to

1 think about -- in 2007, when you're working on the 2008  
2 budget, what are you contemplating?

3 A. Direction of the building, occupancy, big purchases,  
4 things that we think we're going to need.

5 Q. Okay. And once you have your budget for 2008, what  
6 would happen if, let's say, food prices doubled? Would you  
7 only be able to spend the amount of money that was in the  
8 budget to buy the food?

9 A. Well, it's hypothetical. But if that were to  
10 happen, I'm sure that would be notified to a much higher  
11 position than mine so that they could tell me what to do.

12 Q. Okay. Would it be -- would you -- would you have to  
13 stop feeding the residents if food prices doubled and the  
14 budget ran out?

15 MS. CLEMENT: Objection. It lacks foundation.

16 THE COURT: You're asking her a hypothetical  
17 question?

18 MR. REID: Yes, your Honor.

19 THE COURT: She can answer, if she can.

20 THE WITNESS: I would not not feed the residents.

21 Q. (By MR. REID) Okay. And then if food prices were  
22 cut in half for some reason and it didn't -- the food  
23 wasn't costing as much in 2008 as you had predicted, would  
24 that change the budget?

25 A. It may, but not at my hand.

26 Q. So you -- when Miss Clement was asking you  
27 questions, you talked about variance reports.

28 A. Yes.

1 Q. And can you tell the jury -- remind them what a  
2 variance report is.

3 A. Sure. If -- can I give it to them as a hypothetical  
4 for them? For me?

5 Q. However you can best explain it to the jury.

6 A. Okay. If you have a budget for, say, your groceries  
7 for the month, and you say I'm going to spend \$300 on  
8 groceries this month and you spend 400, you would be  
9 looking through your receipts and looking at what had been  
10 going on so that you could explain why you spent \$100 more  
11 for the month on groceries. And you would do that for  
12 every line item in the budget.

13 Q. Okay. How would you be able -- you testified when  
14 Miss Clement was asking you questions that the money that  
15 came in to Emerald Hills went up to a corporate bank  
16 account. You didn't have a bank account, right?

17 A. Correct.

18 Q. So how would you spend money that -- when you didn't  
19 even have a bank account to, say, buy food?

20 A. A financial report would come out to show you what  
21 was spent in each budget every month.

22 Q. Okay. But if I go to the grocery store and I get  
23 milk, I have to give them cash.

24 A. Mm-hmm.

25 Q. How would you get groceries if you don't have cash  
26 to buy it with?

27 A. I'm not sure I understand even how to answer that  
28 question.

1 Q. Okay. Did you have to write a check for, let's say,  
2 your groceries when you were the -- for the community at  
3 Emerald Hills?

4 A. No.

5 Q. So how did you -- how did you acquire food is the  
6 first question? Did you have an ordering process or what  
7 would happened?

8 A. There was an ordering process.

9 Q. Okay. And then would you pay the bill for the food  
10 when the bill -- when the food was delivered?

11 A. You know, I don't remember exactly how I did that,  
12 but I know weekly there was an accounts payable summary to  
13 sign.

14 Q. Okay. Accounts payable summary. So you would  
15 sign -- sign the invoice and send it to -- somewhere?

16 A. It would go to my business manager. I don't  
17 remember how exactly that process happened, but I knew that  
18 there was a weekly for accounts payable. But there were  
19 other ways that things got paid for, obviously, with  
20 different line items on the budget.

21 Q. Okay. How about labor? If you don't have a bank  
22 account or a checkbook, how can you have somebody come and  
23 work that's not in the budget?

24 A. I'm -- I just don't understand how to answer that.

25 Q. Okay. Well, if you were exceeding your budget for  
26 labor for a week, let's say --

27 A. Mm-hmm.

28 Q. -- if you brought another person in, would you have

1 to write a check to them? Or how did the employees get  
2 paid?

3 A. Payroll.

4 Q. Okay. So -- and what does that mean, they got paid  
5 through payroll?

6 A. That means that the company, wherever that came from  
7 would process checks to employees.

8 Q. So did you need a bank account or a checkbook in  
9 order to put staff on the floor?

10 A. No.

11 Q. I want to -- sorry to go back and -- but there was a  
12 question asked of you about -- at the conclusion of your  
13 meeting with that resident's family.

14 A. Yes.

15 Q. And you were asked whether corporate authorized an  
16 increase in the budget for you to increase staffing as a  
17 result of that family member's complaint.

18 Do you have that question in mind?

19 A. Yes.

20 Q. You said, no, they didn't increase the budget. I  
21 think.

22 A. Correct.

23 Q. Did you -- did you think that -- well, number one,  
24 did you think that the budget needed to be increased at  
25 that time?

26 MS. CLEMENT: Leading.

27 THE COURT: She can answer.

28 THE WITNESS: You know, I don't remember what I

1 thought at that time.

2 Q. (By MR. REID) Okay. Number two, if you did think  
3 that you needed more people on the shifts to take care of  
4 the residents, could you do that?

5 A. I'm sorry. Can you say that again, please.

6 Q. If -- if as a result of your meeting with that  
7 family member you determined that you needed to have more  
8 people on the floor taking care of the residents, did you  
9 have the ability to do that?

10 A. That would be a budget decision. And I did not have  
11 that ability to make the decision.

12 Q. Okay. Were there occasions when a resident would go  
13 out to the hospital and you would anticipate you might  
14 need -- they might have higher acuity needs when they come  
15 back from the hospital? Did that ever occur?

16 A. Yes.

17 Q. And when -- in those circumstances were you able to,  
18 on a temporary basis, add staff in anticipation of that  
19 person coming back?

20 A. In conversation with corporate, I could then  
21 authorize overtime to allow for somebody else to be present  
22 on the roster, sure.

23 Q. Okay. Now, in terms of the staffing budget, how  
24 did, if at all -- when -- how did the overtime affect your  
25 staffing budget?

26 A. It exceeded it, or it caused it to exceed the  
27 budget.

28 Q. Okay. So if you had the full roster and people

1 weren't working overtime, did you have a staffing problem?

2 A. Other than what I've described from the beginning of  
3 my time when I first started at Emeritus, I don't remember  
4 a staffing problem, other than the occasional call-off,  
5 need to fill it, that sort of thing. But, no.

6 Q. Okay. And what does that mean, "occasional  
7 call-off" and "need to fill"?

8 A. If somebody called off, meaning didn't -- couldn't  
9 come to work that day, then we would want to make sure that  
10 that space was filled. And so that would be filled usually  
11 with overtime.

12 Q. Okay. Did -- you said "usually with overtime."  
13 What were the options, if there were any, to -- to cover a  
14 shift if somebody called off and said, "I can't come in  
15 today"?

16 A. So in addition to overtime, if somebody is a  
17 part-time employee and would not incur overtime by working  
18 an additional day, that would be an option as well.

19 Q. Okay. Do you have any recollection of anyone  
20 telling you -- while you were the executive director, any  
21 of your staff or employees telling you that they felt  
22 overwhelmed?

23 A. You know, that came up in deposition. And I don't  
24 remember a specific conversation about that, no.

25 Q. Did Peggy Stevenson ever tell you that she felt  
26 overwhelmed?

27 A. Again, I just -- I don't remember a specific  
28 conversation about that.

1 Q. As the executive director of Emerald Hills, who was  
2 the person responsible for the operations at the community?

3 A. I was.

4 Q. And did you supervise your staff?

5 A. Yes.

6 Q. Tell the jury how you supervised your staff as the  
7 executive director.

8 A. Aside from daily meetings, which would be stand-up,  
9 which is a meeting in the morning with all of the managers,  
10 where they would present any issues or concerns or  
11 questions from their department, there was also ongoing  
12 conversation throughout the day. The door was open. They  
13 would come in and ask for help, advice. In addition to  
14 that, we had typically a weekly but sometimes an every  
15 other week managers' meeting.

16 Q. Okay. And then this managers' meeting, what would  
17 happen at that?

18 A. A longer, more extensive version of that morning  
19 meeting that we just described. So it was each department  
20 discussing issues in their department.

21 Q. Okay. Now, tell me about what input or -- let me  
22 ask it a different way.

23 We've heard about this regional team. We've had  
24 people testify that were part of a regional team. How  
25 would you interact with them? What role would they have in  
26 your operation?

27 A. Oh, it was extensive. E-mail, verbal, or in person  
28 sometimes. Collaboration with them on many if not most



1 things.

2 Q. Okay. And did you find that to be -- was that a  
3 good thing or a bad thing?

4 A. It could be both.

5 Q. Depending on what the issue was, I guess.

6 A. Sure.

7 Q. Okay. If you had a question or a concern, did you  
8 have trouble getting ahold of your regional people to help  
9 address those issues?

10 A. Not that I remember.

11 Q. And in terms of -- well, Miss Clement asked you some  
12 questions about an obligation to always have adequate  
13 staff, adequately trained staff to meet the needs of the  
14 residents at all times.

15 Do you have that in mind?

16 A. Yes.

17 Q. Okay. And was that your obligation as the executive  
18 director at Emerald Hills?

19 A. Yes.

20 Q. And what did you do to fulfill that obligation?

21 A. If there was something that I needed that I did not  
22 have, then I asked for it. And when I say "asked for it,"  
23 of my regional team or divisional team, or both.

24 Q. Okay. Was there ever a time that you were denied  
25 resources you needed to meet the needs of a resident?

26 MS. CLEMENT: Leading.

27 THE COURT: She can answer.

28 THE WITNESS: You know, I can't remember a specific

1 request. It was -- there was so much communication with  
2 them.

3 Q. (By MR. REID) Okay. In terms of accepting  
4 residents into the community, did you have a role in that?

5 A. Yes.

6 Q. What was your role?

7 A. Um, in discussion with the marketing director, I  
8 would certainly meet with the family. I would do -- in  
9 most cases I would do the resident agreement with them. If  
10 there was anything to discuss in terms of appropriateness  
11 to have the resident move in, discuss it with regional or  
12 divisional, or both, at times.

13 Q. Okay. And was there ever a time that you permitted  
14 or allowed a resident to move into Emerald Hills whose  
15 needs you didn't think the facility could meet?

16 MS. CLEMENT: Leading.

17 THE COURT: She can answer.

18 THE WITNESS: Can you say that again, please.

19 Q. (By MR. REID) Mm-hmm. Was there ever a time that  
20 you allowed a resident to move into Emerald Hills whose  
21 needs you did not think the facility could meet?

22 A. Not that I remember, no.

23 Q. You mentioned that -- that there was pressure put  
24 upon you to try to maximize occupancy.

25 Do you recall that?

26 A. Yes.

27 Q. Didn't -- how did that pressure affect your decision  
28 to allow people to move into Emerald Hills, if it did?

1 A. It made me happy if we were having a move-in because  
2 that was certainly the expectation.

3 Q. Okay. Would it -- would the pressure cause you to  
4 allow someone to move in whose needs you couldn't meet?

5 A. No.

6 MS. CLEMENT: Objection. It's leading, your Honor.

7 THE COURT: It's not. Overruled.

8 MR. REID: Thank you.

9 Q. (By MR. REID) Then we have this "close the back  
10 door" notion. We saw a memo that you wrote.

11 Did you ever, as the executive director at  
12 Emerald Hills, allow someone to stay at Emerald Hills whose  
13 needs you did not think the community could meet?

14 A. You know, I don't remember. I certainly remember  
15 bringing up concerns for those concerns, and specifically  
16 the ones we talked about today. I don't remember the  
17 outcome of them.

18 Q. Okay.

19 A. If somebody was kept, then I would have needed to be  
20 assured that there was a way to manage their care.

21 Q. Okay. So what does that mean, "a way to manage  
22 their care"?

23 A. Depending on what their care needs were. Was it  
24 that somebody needed additional help from home health, from  
25 physical therapy? I would -- I would wait for some  
26 direction on -- I think as we showed in the earlier  
27 question.

28 Q. Okay. Did the pressure to "close the back door"

1 ever cause you to keep a resident at Emerald Hills whose  
2 needs you did not think could be met even when you bring in  
3 outside resources?

4 MS. CLEMENT: Leading.

5 THE COURT: Overruled.

6 THE WITNESS: You know, I don't remember a specific  
7 case like that.

8 Q. (By MR. REID) Okay. Would that be okay with you?

9 A. Say that again. Would what be okay with me?

10 Q. To have a resident living at Emerald Hills who you  
11 didn't think could be taken care of there?

12 A. No.

13 Q. And as executive director, did you ever allow that  
14 to happen?

15 A. Not that I'm aware of, no.

16 Q. Did -- didn't the written budget, didn't that cause  
17 you to have to have residents in your community whose needs  
18 you weren't meeting?

19 MS. CLEMENT: Objection; leading.

20 THE COURT: Sustained.

21 Q. (By MR. REID) Did the budget that you prepared --  
22 you worked on and prepared in 2007 force you to make  
23 decisions that you thought was causing an inability to meet  
24 the needs of the residents at Emerald Hills?

25 MS. CLEMENT: It's leading. It's compound. It  
26 lacks foundation, and misstates prior testimony.

27 THE COURT: It's very convoluted and hard to follow.

28 MR. REID: Okay.

1 THE COURT: So I'm going to sustain the objection.

2 MR. REID: All right.

3 Q. (By MR. REID) Exhibit -- I'm going to a different  
4 topic. I think we've covered that.

5 A. Okay.

6 Q. Exhibit 27 is -- and I'm not going to bother to pull  
7 it up, but it's that event tracking form. It's a lot of  
8 pages. And you were asked some questions about all these  
9 things that you were reporting to.

10 A. Is that the pull-out, long --

11 Q. Yeah. Maybe you could pull it up for us real quick.

12 A. Sure. Can you tell me again the number.

13 Q. It's Exhibit 27.

14 Okay. Do you have that in front of you?

15 A. I do.

16 Q. Okay. First of all, I think we've established that  
17 that's a report that was generated up in Seattle.

18 A. It must be. I don't know.

19 Q. Okay. And do you understand that to be based on the  
20 event forms that your team would fill out when an event  
21 occurred at Emerald Hills?

22 A. Yes.

23 Q. And that -- how many pages is that document?

24 (Pause.)

25 MR. REID: They should be numbered.

26 May I approach real quick, your Honor.

27 THE COURT: Yes.

28 MS. CLEMENT: They're not.

1 Q. (By MR. REID) Oh, they're not numbered.  
2 A. Sorry. I stopped on nine.  
3 Q. Then let's just say -- would you agree there's a lot  
4 of pages?  
5 A. Yes.  
6 Q. And on each page there's a lot of events, right?  
7 A. Um, yes.  
8 Q. Number one, I want to clarify. Is it -- do you have  
9 a memory of whether every time you reported an event to  
10 Seattle you also had to report that event as an unusual  
11 occurrence to the Department of Social Services?  
12 A. Not necessarily.  
13 Q. Okay. Was there a difference in the standards of  
14 what would be reported to the Department of Social Services  
15 versus what you -- the events you would report to Seattle?  
16 A. Could you re-ask that, please.  
17 Q. I can.  
18 A. Okay. Thank you.  
19 Q. When it came to reporting to DSS and Seattle, did  
20 you have to report more instances -- instances to Seattle  
21 or to DSS?  
22 A. More to Seattle.  
23 Q. And why was that?  
24 A. More things were reportable.  
25 Q. Now, in Exhibit 27, which I think runs more than  
26 your time -- time there at Emerald Hills, there is a lot of  
27 events reported, aren't there?  
28 A. Yes.

1 Q. Do you have a recollection of -- while you were the  
2 executive director at Emerald Hills -- what the average age  
3 was of your population?

4 A. I don't. I'd be guessing.

5 Q. I don't want you to guess.

6 A. Okay. I don't.

7 Q. Can you give us an estimate? Was it over 85 years  
8 old?

9 A. Eighties.

10 Q. In the eighties. Okay.

11 So when we look at Exhibit 27, those of us that have  
12 never run an assisted living community, from your  
13 perspective, does that report reflect to you that you and  
14 your team weren't doing a good job for your residents?

15 MS. CLEMENT: Objection; leading.

16 THE COURT: Overruled.

17 THE WITNESS: Not necessarily. This is a report in  
18 black and white.

19 Q. (By MR. REID) Okay. Does the number of instances  
20 on the report -- as an executive director and a  
21 professional in assisted living, does the number of  
22 instances reflect to you that your team wasn't doing a good  
23 job for your residents?

24 MS. CLEMENT: Leading.

25 THE COURT: Overruled.

26 THE WITNESS: Not necessarily.

27 Q. (By MR. REID) Why not?

28 A. Everything is tracked and, therefore, everything is

1 documented. And in this case, everything that was tracked  
2 and documented was then sent to corporate and recorded.

3 Q. Okay. Well, looking at that first page, there's a  
4 number of falls there, isn't there?

5 A. Mm-hmm. Yes.

6 Q. Okay. Doesn't that number of falls indicate to you  
7 that -- that the -- the team wasn't doing a good job  
8 watching the residents?

9 MS. CLEMENT: Leading.

10 THE COURT: Overruled.

11 THE WITNESS: No, not necessarily.

12 Q. (By MR. REID) Why not?

13 A. I could be standing next to you and fall and there's  
14 nothing you could do to stop me.

15 Q. Why -- if you know, why was Emeritus interested in  
16 having you track and report all of these instances to --  
17 and send the report to Seattle?

18 A. You know, I don't remember why they said. Very few  
19 things weren't tracked.

20 Q. Okay. Did you have an impression one way or the  
21 other whether the team up in Seattle wanted to know the  
22 incidents that were occurring in your building?

23 A. Given that they asked for it, sure.

24 Q. Okay. And when -- when you would -- would you ever  
25 get any feedback from the folks at the regional or  
26 divisional level about the incidents that were occurring?

27 A. You know, I can't remember from my time there, but a  
28 couple of instances came up during deposition --



1 Q. Okay.

2 A. -- of feedback.

3 Q. And in those couple of instances with feedback, was  
4 there any discussion about ways to address the situation?

5 A. One that I remember, yes. And so case by case,  
6 sure.

7 Q. You also mentioned when Miss Clement was questioning  
8 you that you would call the community on the -- you called  
9 it the NOC shift. That's the midnight shift, right?

10 A. It spanned overnight, sure.

11 Q. Okay. What hours would the NOC shift run?

12 A. You know, I can't remember exactly. And the  
13 in-service that had the hours, I can't remember what it  
14 said. But it is typically something close to or 10:00 p.m.  
15 to 6:00 a.m.

16 Q. All right. Do you know what "NOC," N-O-C, means?

17 A. It's probably short for nocturnal. A standard  
18 industry term.

19 Q. Okay. So why were you calling the community during  
20 the NOC shift?

21 A. Various reasons. If I had a question, if I had  
22 something I wanted to communicate to them. I do know that  
23 on more than one occasion, just to put my mind at ease, it  
24 sounds silly, but I would call them and ask them to please  
25 make sure to clean the lint traps.

26 Q. The lint traps?

27 A. Yes.

28 Q. Okay. You mean for the laundry room?

1 A. For the dryers, yes.

2 Q. Why that?

3 A. It's a fire risk.

4 Q. Was it an expectation -- was it your expectation  
5 that if -- if somebody called in, a caregiver called in and  
6 wasn't going to be able to make it to work, and after  
7 calling other staff you weren't able to fill the shift, was  
8 the expectation that a manager would fill the shift?

9 A. Yes.

10 Q. And now the managers, were they hourly employees  
11 that would clock in and clock out?

12 A. Some of them were and some of them weren't. I don't  
13 remember exactly which, but there was a separation there.

14 Q. All right.

15 A. Mm-hmm.

16 Q. Now, if a manager who was on -- was a -- wasn't a  
17 clock-in employee, if they came in to work an overnight  
18 shift, would there be any time card record of them having  
19 covered that shift?

20 A. If they were a salaried employee, not on a punch-in,  
21 I don't think there could be because they're salaried.

22 Q. Okay. Are you aware of any occasion in which --  
23 while you were the executive director at Emerald Hills, and  
24 in particular, when Peggy Stevenson was your resident care  
25 director, that there was no staff member assigned to the --  
26 to cover a Memory Care Unit -- the Memory Care Unit for an  
27 entire shift?

28 A. No, I don't remember that.

1 Q. Is that -- if that ever occurred, would you expect  
2 that to be something brought to your attention?

3 A. Yes.

4 Q. If that occurred, do you think that would be  
5 something that you would remember today?

6 MS. CLEMENT: It's leading, your Honor.

7 THE COURT: Sustained.

8 Q. (By MR. REID) When you say you don't remember that  
9 happening, does that mean it might have happened and you  
10 just don't remember?

11 A. It means I don't remember. It's been a number of  
12 years.

13 Q. Okay. Other than that time frame when you first  
14 started working at Emerald Hills, do you have any memory of  
15 there being staffing-related complaints specific to the  
16 Memory Care Unit?

17 A. No, not to the Memory Care Unit.

18 Q. The daily stand-up meetings. You told us about the  
19 manager meetings, but you also mentioned something about  
20 daily stand-up meetings.

21 A. Yes.

22 Q. Could you tell the jury what those were.

23 A. Sure. So that was a meeting with all of the  
24 department heads. And if a department head was off, then  
25 somebody from their department could otherwise come and  
26 speak to some issues. That would be an update on what  
27 happened in the last 24 hours in their department, what  
28 residents might have been hospitalized, any change of

1 condition, any activities going on, any staffing changes.  
2 And then it was also -- a large portion of it was dedicated  
3 to marketing and potential new residents coming to the  
4 building and how to move that process forward.

5 Q. All right. And what was the -- what were you trying  
6 to accomplish by having these meetings?

7 A. How to move the process forward. So if somebody had  
8 simply expressed an interest, who was following up on it.  
9 Was a tour scheduled? Was a lunch scheduled? Did somebody  
10 need to go to where that resident was and visit them? Were  
11 there calls and follow-up needed that were outside of the  
12 marketing individual's role? Was it -- was there something  
13 another member of management could do to follow up?

14 Q. You mentioned people -- residents moving in might be  
15 some -- a point of conversation in a stand-up meeting?

16 A. Sure.

17 Q. What would you be discussing about that?

18 A. If it was confirmed that a resident was moving in,  
19 we would talk about the move-in date. One of the members  
20 of the meeting is our maintenance director, and so we would  
21 find out if there was anything that needed to be done to  
22 the room. We would find out if there was something we  
23 could do to make it more homey for them, something special,  
24 and just any steps that were still needed in the process  
25 for move-in.

26 Q. You also mentioned change of condition might be  
27 something discussed at the meeting.

28 A. Yes.

1 Q. What does that mean?

2 A. Anything that could have changed for a resident. If  
3 a resident had a fall, if a resident wasn't feeling well,  
4 anything that could have changed for that resident.

5 Q. And in the meeting who would be the person talking  
6 about the resident's needs or change of condition?

7 A. Whichever department that resident was in. So the  
8 department head for that department. The manager.

9 Q. Okay. So -- and are we talking about there's a  
10 memory care department and the assisted living department?

11 A. Yes.

12 Q. And how would -- let's say if -- say a resident woke  
13 up at 2:00 o'clock in the morning and said they had a  
14 stomach ache and -- is that something that might be  
15 discussed at a stand-up meeting the next morning?

16 A. It might be. Sure.

17 Q. And how would -- how would the department manager  
18 know of that information?

19 A. There was a log, and I don't remember what they  
20 called it, but where they would write -- "they" being the  
21 caregiver -- an update on what was going on with the  
22 resident. And that could be -- that would be reviewed by  
23 the department head.

24 Q. Okay. Does the term "communication log" sound  
25 familiar? You don't remember?

26 A. I don't remember.

27 Q. Okay.

28 A. Sorry.

1 Q. I want to talk a little bit about -- follow up on  
2 the -- your memory of Mrs. Boice and that circumstance.

3 Do you have any memory of discussions -- focusing on  
4 the latter part of her stay in November of 2008 -- any  
5 discussions about what should be happening with her care?

6 A. So much of my memory is now more of the deposition  
7 process because we discussed it there. I don't remember --  
8 I don't remember dates and I don't remember specific  
9 conversations, but I do remember that there was discussion  
10 about whether or not to get involved home health, hospice,  
11 or seek placement in a skilled nursing facility.

12 Q. And do you remember why that -- what was the impetus  
13 of that conversation?

14 A. Yes. When it was reported that she had a decubitus  
15 ulcer.

16 MR. REID: Okay. Your Honor, if we might, I'd like  
17 to ask the witness to pull Exhibit 2.

18 THE WITNESS: Are we done with this?

19 Q. (By MR. REID) Yes. Thank you.

20 A. Okay.

21 Q. And turn to page 54.

22 Do you have that in front of you?

23 A. I do.

24 Q. What are you -- what are you -- do you recognize  
25 that document as -- what is that document?

26 A. Um, this document is a record of e-mail from -- it  
27 looks like it's printed from the RCD account, which is the  
28 resident care director. And what else would you like me to

1 describe?

2 Q. Well --

3 MR. REID: Would it be okay to broadcast -- put that  
4 up on the screen, your Honor?

5 THE COURT: This whole exhibit, I believe, has been  
6 admitted.

7 Correct?

8 MS. CLEMENT: Yes. Yes.

9 THE COURT: How much of this -- how many pages are  
10 we talking about?

11 MR. REID: I was just going to ask her questions  
12 about -- I think there's about six pages.

13 THE COURT: Six pages of different e-mails?

14 MR. REID: Of the e-mails.

15 THE COURT: Okay. All right.

16 MR. REID: Thank you.

17 Q. (By MR. REID) Page 54. And let's just look at the  
18 top -- top e-mail there.

19 Now, this is addressed to Nancy. That would be you  
20 I assume, huh?

21 A. Correct.

22 Q. Okay. And do you remember who Kathleen Boice was?

23 A. I remember that she is Joan Boice's daughter-in-law.

24 Q. All right. And if you could take a look at that  
25 e-mail and tell the jury what was happening as of November  
26 20th, 2008 concerning Joan Boice.

27 (Pause.)

28 THE WITNESS: Okay. Unfortunately, I don't remember

1 the e-mail, but I can tell what is in it. And I reviewed  
2 this in the last deposition. I don't know who Misty is.  
3 And what it seems like from this e-mail is that I reported  
4 to somebody -- it looks like Misty -- that I had heard from  
5 the State. And by "the State," that would mean my  
6 licensing program analyst who was my contact at the -- at  
7 the State. And that they said it would be okay to keep  
8 Joan at Emerald Hills with hospice care.

9 It looks like a message was left for the doctor for  
10 a request for an order for hospice care and that the doctor  
11 was told that the family was in favor of that.

12 And then it looks as though she's referring to my  
13 supervising a training that somebody named Kim provided to  
14 the resident assistants. And that it appears as though  
15 Joan was a participant in that.

16 Q. (By MR. REID) Okay. And let's just look at the  
17 next e-mail there. And I'll ask you some follow-up  
18 questions. Okay?

19 A. Okay.

20 Q. That's a -- is that a follow-up e-mail from the  
21 prior one, or what is that?

22 A. If you look at -- I think it would probably be more  
23 clear to look at the time of the e-mail to see which came  
24 first.

25 Q. Okay.

26 A. This is 3:33 in the afternoon. And the one we just  
27 looked at was 3:44. So it looks like this preceded the one  
28 we just read.



1 Q. Okay.

2 A. And this looks -- I'm sorry. I didn't know if you  
3 asked me to go ahead and review this one as well.

4 Q. Yeah. Well, actually, we don't need to do that.

5 A. Okay.

6 Q. Let's look at the one that starts at the bottom of  
7 the -- of page 54.

8 Okay. So do you recognize that as an e-mail from  
9 Kathleen Boice to you, Emerald Hills, ED?

10 A. Yes.

11 Q. Okay. And what is Ms. Boice communicating to you --  
12 Ms. Kathleen Boice communicating to you?

13 A. That -- again, I don't know who Misty is. I can't  
14 remember. But that making Joan hospice eligible is  
15 something that she and we, which I assume is the family,  
16 want to pursue.

17 Q. Okay. Thank you.

18 A. And then it cuts off.

19 Q. All right. We'll -- we won't look at any more.

20 But I want to ask you, if you're able to, can you  
21 describe to the jury what's happening in these  
22 communications between you and the Boice family.

23 A. I'm not sure what you're asking.

24 Q. Okay. Well, back up just a step.

25 When -- were there times when -- I'll ask it a  
26 different way.

27 Was -- was one of your roles to work with the family  
28 to help decide the next right step for their family member?

1 A. I wouldn't say "help decide," but work with them and  
2 make sure they had all of the information they could have,  
3 and then help in any way that I could.

4 Q. Okay. And if we assume that Misty is someone with  
5 Kaiser, Ms. Boice's home health -- healthcare provider,  
6 tell the jury about how Emerald Hills and you as the  
7 executive director, the family, and Kaiser would be working  
8 in helping -- or helping that process?

9 MS. CLEMENT: Objection, your Honor. It calls for  
10 speculation. There's no foundation the witness remembers.

11 THE COURT: Sustained.

12 Q. (By MR. REID) Do you have a memory of working with  
13 the Boice family and her healthcare provider in determining  
14 the next right steps for Miss -- Mrs. Boice, Mrs. Joan  
15 Boice?

16 A. Not as the events happened. Only as what's shown  
17 through e-mail.

18 Q. Okay. And as an executive director, did you have  
19 occasion to interact with families and healthcare providers  
20 as a person -- a resident was transitioning?

21 A. Yes.

22 Q. What were your goals in that process?

23 A. First and foremost, to make sure that the resident  
24 and the family understood what their options were. And  
25 given my prior knowledge of hospice, to be able to answer  
26 those questions because that can be a difficult topic.

27 Q. Okay. And do you have an understanding of what  
28 actually happened with Mrs. Boice over the following weeks?

1 A. Based on information that's come out through  
2 deposition, not shared with me but in the questions that  
3 were asked of me.

4 Q. Okay. All right. Then we won't ask those  
5 questions.

6 Do you have any recollection of communicating with  
7 any regional staff about Mrs. Boice and what -- what her  
8 circumstance was, what might need to happen with her?

9 A. I don't remember the specific conversation, but I  
10 remember being involved with regional to discuss hospice,  
11 home health, SNF placement. It was just discussion of the  
12 three options.

13 Q. Okay. And who makes the decision ultimately  
14 hospice, home health, or skilled nursing?

15 MS. CLEMENT: It's vague, and it lacks foundation.  
16 And it's leading.

17 THE COURT: It's vague. Sustained on that basis.

18 Q. (By MR. REID) Is it Emerald Hills' decision about  
19 whether a resident will go on hospice or home health or  
20 move to a skilled nursing facility?

21 A. No. It's not their decision.

22 Q. Whose decision is it?

23 A. Family.

24 Q. In order for someone to move into a skilled nursing  
25 facility, is there -- what requirement, if any, is there in  
26 terms of a doctor being involved in that?

27 A. I believe that for a skilled nursing to accept a new  
28 resident a skilled nursing would need a doctor's order to

1 admit to skilled nursing.

2 Q. I want to go back to an exhibit that Miss Clement  
3 asked you some questions about, the residency agreement.  
4 And I want to go to some real specific sections in that.

5 So if you could pull Exhibit 3. I believe it's  
6 Exhibit 3.

7 A. Okay.

8 Q. And if you could turn to page nine. I think it says  
9 BF9.

10 A. Okay.

11 Q. Now, is that the ninth page of the admissions  
12 agreement?

13 A. No. It's the ninth page of the exhibit. It's page  
14 six of the agreement.

15 Q. Okay. But it is part of the admission agreement,  
16 correct?

17 A. Yes.

18 MR. REID: All right. Your Honor, would it be okay  
19 if we put up exhibit -- BF9, paragraph D?

20 THE COURT: Yes.

21 Q. (By MR. REID) All right. What is -- what is  
22 paragraph D of the residency agreement intended to  
23 communicate to the family, or the person signing for the  
24 family?

25 A. Would you like me to read it, or would you like me  
26 to read it and provide a summary?

27 Q. Go ahead and read it, please.

28 A. "We shall not be responsible for furnishing or

1 paying for any healthcare items or services not expressly  
2 included in this agreement, including but not limited to  
3 home health, hospice, physicians' services, nursing  
4 services, surgery, hospital care, treatment or examination  
5 of eyes or teeth, medications, vitamins, eyeglasses,  
6 contact lenses, hearing aids, orthopedic appliances,  
7 medical supplies, prosthetic devices, laboratory tests, and  
8 x-ray services."

9 Q. Okay. And do you have an understanding of why  
10 Emerald Hills would not be providing those types of  
11 services?

12 A. Well, for some of those services, those are medical  
13 services.

14 Q. And can -- so why wouldn't they provide medical  
15 services?

16 A. An assisted living is not a medical facility.

17 Q. All right. The second paragraph has to do with the  
18 community making sure that there's medication available.

19 Do you have a memory of who the -- which pharmacy  
20 was in -- was servicing Emerald Hills in August and  
21 September of 2008?

22 A. I don't remember. I know there was a switch being  
23 made, and I just can't remember if it was done by then.

24 Q. That's fine. Then we'll move on.

25 A. Okay.

26 MR. REID: Could you pull up -- the next paragraph.  
27 It's E.

28 THE COURT: Terrance, can we get the lights, please.

1 Q. (By MR. REID) "If you require home health agency  
2 personnel, or hospice, or other outside assistance, we will  
3 assist you in accessing these services as well. For any  
4 services provided to you at the community, you must abide  
5 by the policies." (As read.)

6 Are these services that Emerald Hills can provide?

7 A. Which services?

8 Q. The home health or hospice?

9 A. No.

10 Q. Okay. Thank you.

11 If you could go to page 12, please. And go to the  
12 bottom section there, Section D1.

13 Could you read that for the jury, please.

14 A. Sure. This is entitled, "Transfer for More  
15 Appropriate Care."

16 "The community is licensed as a residential care  
17 facility for the elderly, and is not designed to provide  
18 higher levels of care, such as nursing or care for mental  
19 or emotional disorders. You may remain in your apartment  
20 as long as doing so is conducive to..."

21 (Pause.)

22 THE WITNESS: "...so long as doing so is conducive  
23 to your safety and well-being, the safety and well-being of  
24 the other residents at the community, and applicable legal  
25 requirements. If we determine, in consultation with you,  
26 your family and/or your physician, that you are unable to  
27 remain in your apartment consistent with these  
28 requirements, you will be asked to move from the community

1 and this agreement will terminate. If you do not move out  
2 under these circumstances, and we determine that it is  
3 necessary to provide you with one-on-one care in order to  
4 protect your health or safety, or the health or safety of  
5 others, we will provide such care and you will be charged  
6 for it in accordance with Appendix B." (As read.)

7 Q. (By MR. REID) And in an instance where a resident  
8 has a medical care provider like Kaiser, would that be  
9 someone that would be able to provide the level of care  
10 that a resident like this would need?

11 MS. CLEMENT: It lacks foundation and is leading.

12 THE COURT: Sustained.

13 MR. REID: That's fine. Thank you.

14 Q. (By MR. REID) I want to talk a little bit about the  
15 Memory Care Unit. And you were asked some questions about  
16 Alicia Parga.

17 A. Yes.

18 Q. Do you remember Alicia?

19 A. I do.

20 Q. Tell the jury what you remember about Alicia as a  
21 manager of the Memory Care Unit.

22 A. I remember that she was, from my recollection, in  
23 place when I started there. Had been there for some time  
24 prior to my arrival and -- although not as a manager. And  
25 really what I could speak to about Alicia is she was  
26 very -- she was very driven by her heart to take care of  
27 residents.

28 Q. Okay. Do you remember having any concerns about her

1 abilities as the manager of the Memory Care Unit?

2 A. You know, this was asked of me during deposition. I  
3 don't remember concerns, but what I did recall was that I  
4 had a -- a mutual agreement with her that we had a  
5 check-in, it may have been daily, to review the tasks that  
6 she needed to take care of and then meet again to see where  
7 she was at with her tasks.

8 Q. Okay. And why were you doing that?

9 A. I had observed that she was somebody who needed to  
10 be able to refocus on what she was doing.

11 Q. Okay. And was that a successful strategy?

12 A. From what I remember, yes.

13 Q. You were asked a question about this notion of  
14 bedridden.

15 A. Mm-hmm.

16 Q. And would you kindly pull Exhibit 2, and I'd like  
17 you to turn to page 23.

18 A. Page 20?

19 Q. Three.

20 A. Okay.

21 MR. REID: Could we display that, your Honor? I  
22 believe it's admitted.

23 THE COURT: Yes.

24 MR. REID: Thank you.

25 Could you just highlight...

26 The next one. The whole thing. That whole section.  
27 Thank you.

28 Q. (By MR. REID) You were asked a question about



1 whether you were aware of a definition of "bedridden," and  
2 you said you weren't aware of that definition.

3 Back in 2008, did you have a familiarity with the  
4 Title 22 regulations?

5 A. Yes.

6 Q. Okay. And I'm showing you -- do you recognize this  
7 to be the 602 physician form related to Mrs. Boice?

8 A. I recognize it as a 602, yes.

9 Q. Okay. And in this instance, the physician  
10 determined Mrs. Boice to be non-ambulatory, correct?

11 A. Correct.

12 Q. And what does that mean?

13 A. Unable to -- to leave the facility unassisted.

14 Q. Okay. And it goes on. I won't make you read it.

15 Now, here is a -- here's a definition of "bedridden"  
16 (indicating). Could you tell the jury what that definition  
17 says.

18 A. Would you like me to read it?

19 Q. Sure.

20 A. Okay. "Means either requiring assistance in turning  
21 and repositioning in bed, or being unable to independently  
22 transfer to and from bed except in facilities with  
23 appropriate and sufficient care staff, mechanical devices,  
24 if necessary, and safety precautions. No resident shall be  
25 admitted or retained in a residential care facility for the  
26 elderly if the resident is bedridden, other than for a  
27 temporary illness or for recovery from surgery."

28 (As read.)

1 Q. Okay. When you were the executive director at  
2 Emerald Hills, whose responsibility was it to make sure  
3 that the community -- the facility was -- had appropriate  
4 and sufficient care staff and mechanical devices and safety  
5 precautions to assist the residents?

6 MS. CLEMENT: It's compound and leading.

7 THE COURT: I'm sorry. I couldn't hear what you  
8 said.

9 MS. CLEMENT: It's compound and leading.

10 THE COURT: Sustained.

11 Q. (By MR. REID) Was somebody responsible to make sure  
12 that there was appropriate and sufficient care staff when  
13 you were the executive director at Emerald Hills?

14 A. Yes.

15 Q. And was that you?

16 A. Yes.

17 Q. In combination with your managers, right?

18 A. Yes.

19 Q. All right. And did -- did you have -- did you have  
20 mechanical devices if you needed them to assist the  
21 residents?

22 A. I don't remember a mechanical device.

23 Q. Okay. How about safety precautions?

24 A. Yes.

25 Q. When you were the executive director at  
26 Emerald Hills, was there ever a time that you became aware  
27 that you had a resident who was bedridden under this  
28 definition?

1 A. No.

2 Q. Thank you.

3 We've heard some -- a lot of information about  
4 med techs providing medication to residents. And there's a  
5 distinction between assisting a resident with medications  
6 and administering medications, is there not?

7 MS. CLEMENT: Objection, your Honor. Exceeds the  
8 scope.

9 MR. REID: I'm not intending to bring her back, and  
10 this is really the last thing I wanted to talk to her  
11 about.

12 THE COURT: She's not going to testify later on; is  
13 that what you're saying?

14 MR. REID: Yes. That's what I'm saying.

15 THE COURT: All right. Go ahead.

16 THE WITNESS: Could you repeat, please.

17 MR. REID: Could I ask to have the question read  
18 back, your Honor?

19 THE COURT: Yes.

20 (Record read.)

21 THE WITNESS: Correct.

22 Q. (By MR. REID) Okay. And can you tell the jury,  
23 having been the administrator at Emerald Hills, what's  
24 the -- that distinction?

25 A. Assisting versus administration. We're  
26 administering -- assisting is assisting a resident who is  
27 still able to participate in the process of taking the  
28 medication. And administering would be something more like

1 at a hospital or a skilled nursing facility, where it could  
2 be hidden in applesauce, it could be injected, it could be  
3 given to somebody who can't actually take it themselves,  
4 with some assistance.

5 Q. All right. Now, if someone has -- has some level of  
6 dementia and they don't know what the medication is, if a  
7 med tech puts it in that person's hand and says, "Okay,  
8 time to take your medicine," and they take it, would you  
9 understand that to be administering medication or  
10 assisting?

11 MS. CLEMENT: It lacks foundation. And it's  
12 leading.

13 THE COURT: She can answer.

14 THE WITNESS: Depending on what was going on with  
15 the resident, assisting.

16 Q. (By MR. REID) Okay. If -- would a -- would the --  
17 would it -- a med tech be -- would it be considered  
18 administering medication if the med tech opened the  
19 person's mouth and put the pill in their mouth?

20 A. I believe so, yes.

21 Q. A med tech encouraging or coaxing a resident to take  
22 a medication, is that assisting or administering?

23 MS. CLEMENT: Leading.

24 THE COURT: Overruled.

25 THE WITNESS: Depending on the context, assisting.

26 MR. REID: Those are all the questions I have.

27 Thank you very much.

28 THE WITNESS: Thank you.

1 THE COURT: Miss Clement.

2 MS. CLEMENT: Yes, your Honor.

3 RECROSS-EXAMINATION

4 BY LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of  
5 the Plaintiffs:

6 Q. Can you go back to Exhibit Number 27, the big long  
7 one.

8 A. Sure.

9 Q. And I want to direct you to the first month that  
10 Mrs. Boice was there. And that page starts on the  
11 left-hand side. It says 9/15/08. But the incident first  
12 started on 9/14/08.

13 A. 9/15?

14 Q. Yeah.

15 A. Okay.

16 Q. Do you see that page?

17 A. Yes.

18 Q. Okay. So the incidents recorded on that page of the  
19 resident incident reports are from 9/14 to 10/14 of 2008,  
20 true?

21 A. Correct.

22 Q. Okay. And in that one month period of time, there  
23 were seven falls with injuries in the facility that were  
24 reported; one was a fracture, true?

25 A. True.

26 Q. And four of those residents were in the Memory Care  
27 Unit, true?

28 A. Where are you seeing that?

1 Oh, I'm sorry. I see.

2 Q. Okay.

3 A. Yes.

4 Q. And the rest of those residents were all in the  
5 assisted living side, true?

6 A. True.

7 Q. And one of those residents was Mrs. Boice, on  
8 September 22nd, 2008, correct?

9 A. Her name's not on here.

10 Oh, I'm sorry. It is. Yes, it is.

11 Q. It's the only one that's not blocked out.

12 Okay. So you see it there. It was reported on  
13 9/29. And the date of the injury was 9/22, at 8:00 p.m.?

14 A. Yes.

15 Q. And you reported to corporate headquarters that  
16 Mrs. Boice was in her room, hit her head, and was  
17 discovered on the floor and sent to the emergency room?

18 A. Yes.

19 Q. Okay. So now can you turn to Exhibit Number 23.

20 A. Okay.

21 Q. Okay. Is this the unusual incident report for Joan  
22 Boice that you sent to the Department of Social Services?

23 A. Yes.

24 Q. And did you sign this on 9/26/08?

25 A. Yes.

26 MS. CLEMENT: At this time, your Honor, plaintiffs  
27 would seek to move into evidence Exhibit Number 23.

28 MR. REID: No objection, your Honor.

1 THE COURT: Twenty-three is admitted.

2 Q. (By MS. CLEMENT) Okay. And if you could just turn  
3 to the next exhibit, 24.

4 THE COURT: Actually, 23 had been admitted already  
5 by agreement.

6 MS. CLEMENT: Oh, okay.

7 THE COURT: And so has 24.

8 MS. CLEMENT: Oh. And 25.

9 Okay. Thanks, Judge. Sorry.

10 Okay. And then exhibit number -- well, why don't we  
11 just shoot up 23, Erik.

12 Are we ready with the projector? Oh, there we go.

13 Q. (By MS. CLEMENT) Okay. So this was Joan's unusual  
14 incident report. And this is the form that you send to the  
15 State?

16 A. Correct.

17 Q. Okay.

18 MS. CLEMENT: And can you go to the next section,  
19 Erik.

20 Q. (By MS. CLEMENT) And you told the State that at  
21 approximately 8:00 p.m., on 9/16, Joan was found on the  
22 floor in her apartment, and the staff sent her to the  
23 hospital and notified the family and the physician,  
24 correct?

25 A. Yes.

26 Q. And you always make sure that you're very accurate  
27 in filling out these reports, correct?

28 A. I do my best. Yes.

1 Q. Okay. And was it your experience that over the  
2 course of time you worked at Emeritus that you were sending  
3 about nine or ten of these reports to the State every  
4 month?

5 A. I don't remember how many, but I did do a lot.

6 Q. Does that sound about -- the right number?

7 A. It does.

8 Q. Okay.

9 MS. CLEMENT: And next.

10 Q. (By MS. CLEMENT) And so you told the State that the  
11 fall wasn't witnessed, but she was found and assisted by  
12 the med tech Lynda Kittle, true?

13 A. True.

14 Q. And the staff called for an ambulance and then  
15 notified the physicians and the family, true?

16 A. True.

17 Q. And then on the next page, you indicated that there  
18 was no medical treatment necessary, true?

19 A. True.

20 Q. And you wrote that Mrs. --

21 MS. CLEMENT: Next section, Erik, please.

22 Q. (By MS. CLEMENT) -- Mrs. Boice had been at the  
23 community for a short time and the staff would be watching  
24 her for fall risk behavior, true?

25 A. True.

26 Q. And then you signed the document?

27 A. Yes.

28 MS. CLEMENT: Then if we can go to Exhibit 24.



1 Q. (By MS. CLEMENT) This is the first responder  
2 worksheet that was filled out by Lynda Kittle, the person  
3 who found Mrs. Boice, true?

4 A. Yes.

5 Q. Okay. And she found Mrs. Boice --

6 MS. CLEMENT: Erik, can you highlight that on the  
7 far right.

8 Q. (By MS. CLEMENT) -- in the video room, true?

9 A. True.

10 Q. That's not her apartment, correct?

11 A. Correct.

12 Q. And the fall was unwitnessed, true?

13 A. True.

14 Q. And she was --

15 MS. CLEMENT: Next section, Erik.

16 Q. (By MS. CLEMENT) She was found on the floor  
17 facedown and had hit her head on the floor, true?

18 A. Yes.

19 Q. And you understood from your communication with  
20 Lynda Kittle that Mrs. Boice was -- had been left alone in  
21 the video room, true?

22 A. I don't remember, unless it's on here later, what my  
23 communication was with her. I don't remember.

24 MS. CLEMENT: Next section, Erik.

25 Q. (By MS. CLEMENT) And she was sent to Sutter Auburn  
26 Faith at about 8:30 p.m.?

27 A. True.

28 MS. CLEMENT: And next section.

1           And Lynda -- you went too far. It's critical  
2 interventions. Yeah.

3           Q.       (By MS. CLEMENT) Initial interventions to prevent  
4 further occurrences. Lynda Kittle came up with her own  
5 intervention to check often.

6           Do you see that?

7           A.       I do.

8           Q.       Now, when a resident has a fall with an injury, as  
9 Mrs. Boice did on 9/22, there's supposed to be a  
10 reappraisal of the resident, true?

11          A.       Yes.

12          Q.       And a care plan developed by the nurse, true?

13          A.       Yes.

14          Q.       It is not appropriate to have a med tech prepare a  
15 care plan for a resident, true?

16          A.       True.

17          Q.       And next is whether the physician was notified.

18                   Do you see that?

19          A.       Yes.

20          Q.       And did Lynda indicate any -- that she'd actually  
21 notified the physician by date or time?

22          A.       No.

23          Q.       And she did indicate she notified Eric Boice, true?

24          A.       I'm sorry?

25          Q.       She indicated that she --

26                   THE COURT REPORTER: Did or did not?

27          Q.       (By MS. CLEMENT) -- she did notify Eric?

28          A.       True.

1 MS. CLEMENT: Okay. And go to Exhibit 25.

2 Q. (By MS. CLEMENT) Is this the event management  
3 report that you would have prepared to send to corporate?

4 A. Yes.

5 MS. CLEMENT: Okay. Next section.

6 Q. (By MS. CLEMENT) And you told them that she was  
7 found on the floor facedown in her room and had evidence of  
8 a hit to the head?

9 A. Yes.

10 Q. And that --

11 MS. CLEMENT: Next section, Erik, please.

12 Q. (By MS. CLEMENT) And that she was going to be --  
13 she was observed for additional signs and symptoms of  
14 injury after the ambulance was called?

15 A. Yes.

16 Q. Do you remember that Mrs. Boice was sent by herself  
17 to the emergency room, just with the paramedics?

18 A. I don't remember the incident. But from having  
19 discussed it in deposition, that was told to me, yes.

20 Q. Do you remember telling the family when they were  
21 concerned about that that it was because you didn't have  
22 enough staff to go with Mrs. Boice to the emergency room?

23 A. I don't remember that, no.

24 MS. CLEMENT: Next section, Erik.

25 Oh, sorry. Erik, can you go back to the  
26 interventions.

27 Q. (By MS. CLEMENT) So the intervention was just going  
28 to be staff instructed to check on residents regularly,

1 true?

2 A. True.

3 Q. And then you and Peggy Stevenson signed this,  
4 correct?

5 A. Yes. It looks like it was -- I may have misspoken  
6 early, because it says it was completed by Margaret  
7 Stevenson. But, yes, I did sign it.

8 Q. Okay. Now, do you remember why you didn't tell the  
9 State that Mrs. Boice had an injury?

10 A. I don't remember that I didn't tell them.

11 Q. Okay. Do you remember on the form, Exhibit  
12 Number --

13 A. Oh, I'm sorry.

14 Q. -- 23 we just looked at?

15 A. Yes. We -- I don't remember this, but I remember  
16 discussing in deposition that if a resident was not  
17 admitted to the hospital that there was not medical  
18 treatment done, if she was released without being admitted.

19 Q. Isn't it true that before you sent in these unusual  
20 incident reports that you were required by corporate to  
21 share this -- what you planned to do with the regional  
22 team?

23 A. True.

24 THE COURT: Miss Clement?

25 MS. CLEMENT: Yes.

26 THE COURT: Can we -- we're going to have to take  
27 our afternoon break now.

28 MS. CLEMENT: Oh, our afternoon break. Yes. Sorry,

1 your Honor.

2 THE COURT: Ladies and gentlemen, leave your  
3 notebooks on the chairs. Remember the admonitions. We're  
4 going to start up at -- hold on. We're going to start up  
5 at 3:20 today. A short break. And you are going to be  
6 released at 4:00 o'clock today because I have a hearing at  
7 4:00 o'clock.

8 Okay. So please be back, ready to go on time.  
9 We're in recess.

10 3:20.

11 THE WITNESS: 3:20.

12 **(The following proceedings were then had in open**  
13 **court, outside the presence of the jury.)**

14 THE COURT: Do you think we're going to be finished  
15 with this witness by 4:00 o'clock?

16 MS. CLEMENT: Yes, absolutely.

17 THE COURT: Allowing for the jurors to ask questions  
18 as well?

19 MS. CLEMENT: Yeah. I've got five minutes with her.

20 THE COURT: Okay.

21 MR. REID: I have about two minutes of follow-up at  
22 this point.

23 THE COURT: Okay. All right. Let's take our break.  
24 We'll be back at 3:20.

25 MS. CLEMENT: Thanks, Judge.

26 (Recess.)

27 (Change of court reporters.)

28 ---o0o---

1       **(The following proceedings were held in open court, in the**  
2                                   **presence of the jurors:)**

3           COURT ATTENDANT: Please come to order. Department 45  
4 is once again in session. The honorable Judge Judy Hersher  
5 now presiding. You may be seated.

6           THE COURT: Okay.

7           MS. CLEMENT: Thank you, your Honor.

8       Q       (BY MS. CLEMENT) Now, um, Ms. Cordova, while you were  
9 at Emeritus you spent a lot of your time involved in  
10 meetings; is that true?

11      A       True.

12      Q       You had a lot of conference calls where you had to be  
13 on the phone with regional team members?

14      A       True.

15      Q       How many times a week were you on the phone on -- on  
16 weekly conference calls or more frequent conference calls?

17      A       One that was scheduled and then there were -- there  
18 were typically more, but one firmly scheduled.

19      Q       Then you had to do a lot -- spend a lot of time  
20 marketing as well, correct?

21      A       True.

22      Q       And you had to spend time meeting potential residents  
23 and their families to sign them up for the contracts?

24      A       True.

25      Q       And you had to spend time in your daily stand-up  
26 meetings?

27      A       True.

28      Q       And you had to spend time in your office going over

1 forms and budgets and documents that corporate expected you  
2 to turn in?

3 A True.

4 Q And you were not, um -- for example, you didn't know  
5 on a day-to-day basis what the acuity was of all of the  
6 residents in the facility; true?

7 A Each and every one, no.

8 Q And with Mrs. Boice as an example, you didn't know  
9 when she left the facility that she had multiple full  
10 thickness pressure ulcers; true?

11 A Correct.

12 Q And you were asked some questions on, um, redirect by  
13 Mr. Reid about food and food costs and things like that and  
14 your ability to budget for that; do you remember that?

15 A Yes.

16 Q And that was all controlled by corporate; true?

17 A True.

18 Q And you had a budgeted meal cost per resident day in  
19 both 2007 and 2008; true?

20 A True.

21 Q Do you remember what the budgeted meal cost was per  
22 resident per day in 2008?

23 A I don't.

24 MR. REID: Objection, it's irrelevant.

25 THE COURT: Overruled.

26 THE WITNESS: I don't.

27 MS. CLEMENT: At this time, your Honor, I would like  
28 to read from Exhibit Number 29, the Defendants' response to

1 Myron Boice's special interrogatories number one, special  
2 interrogatory number 26. It's on page 14. I misspoke, 23.

3 Is that okay?

4 MR. REID: Um, considering the last ruling, no  
5 objection.

6 **(Joint Exhibit 29 was marked for identification.)**

7 MS. CLEMENT: The question was: Please state Emerald  
8 Hills' budgeted goal for meal costs per resident day in  
9 2008?

10 And the answer was: 4 dollars and 31 cents per day.

11 Q (By MS. CLEMENT) Do you remember what your actual,  
12 um, meal cost was per resident day?

13 A I don't.

14 Q Do you remember that was one of the things that you  
15 had to deal with on your monthly variance detail reports was  
16 if you went over on food?

17 A Yes. I don't remember the specific line item, but I  
18 had to -- to talk about each and every one.

19 MS. CLEMENT: And special interrogatory number 26 I  
20 would like to read into the record.

21 THE COURT: Any objection?

22 MR. REID: No, your Honor.

23 MS. CLEMENT: Please state Emerald Hills' actual meal  
24 costs per resident per day in 2008.

25 3 dollars and 42 cents to 4 dollars and 93 cents per  
26 resident per day.

27 Q (By MS. CLEMENT) Does that sound about right to you?

28 A I -- I really have no memory of that amount.



1 Q Your budget for staffing was not based on resident  
2 acuity; true?

3 A True.

4 Q And, um, you weren't disputing Mrs. Kasuba's  
5 complaints that she raised in her letter of October 12th,  
6 2007; true?

7 A True.

8 Q And you weren't disputing, um, the resident's family  
9 member's concerns that he raised in his letter to you, um,  
10 of January 2008, only that he was -- the attack that he made  
11 on you personally; true?

12 A There -- there was something in it that was not  
13 accurate in terms of time frame, but, no, everything was  
14 very much taken to heart what he said.

15 Q Now, when you worked at Sunrise Assisted Living was  
16 the staffing better there?

17 A From what I can remember --

18 MR. REID: It's vague.

19 THE COURT: Sustained.

20 Q (By MS. CLEMENT) Did you feel pressure at Sunrise to  
21 accept and retain high acuity residents?

22 A Pressure, no, but it was the expectation.

23 Q Okay. And did you ever have any concerns about there  
24 not being sufficient staff while you were at Sunrise?

25 A Not that I remember, no.

26 Q Did you ever have any concerns that you didn't have  
27 sufficient funds in your budget at -- at Sunrise or --  
28 strike that.

1           Did you have anything to do with the budget at all at  
2       Sunrise at that time?

3       A       No.

4       Q       Okay. You weren't the executive director; true?

5       A       Correct.

6           MS. CLEMENT: No further questions. Thank you,  
7       Ms. Cordova.

8           THE WITNESS: Thank you.

9           THE COURT: Mr. Reid?

10          MR. REID: Two little areas. Not two questions but  
11       two little areas.

12                               FURTHER REDIRECT EXAMINATION

13       BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the  
14       Defendants:

15       Q       In terms of the, um, the food purchasing, um, did --  
16       were you able to participate in national contracts that  
17       Emeritus negotiated with food providers to get your food for  
18       Emerald Hills?

19       A       No.

20       Q       Okay. Where did the food come from?

21       A       You know, I don't remember the company that provided  
22       it, and I do believe there was a switch during my time  
23       there.

24       Q       All right. Could we take a look at, um, Exhibit 23,  
25       please?

26           You were shown this on, um -- by Ms. Clement a minute  
27       ago. I just wanted to show you the entire top of the  
28       document. It looks like at the -- at the top -- and this is

1 the -- this is the form that you would send to the State  
2 when there was an unusual incident, correct?

3 A Correct.

4 Q And then this box here "type of incident", would this  
5 basically describe what you were supposed to report to the  
6 State?

7 A I'm not sure I understand.

8 Q That wasn't a good question.

9 These type of incidents -- these were the types of  
10 incidents that would get reported to the State, correct?

11 A Correct.

12 Q Okay. And what would get reported to Emeritus was a  
13 much bigger list?

14 A Correct.

15 Q Now, um, we are -- was there ever a time that you  
16 intentionally were not accurate on one of these reports to  
17 the State that you sent in?

18 A I can't remember every single one I filled out, but I  
19 would not be intentionally inaccurate.

20 Q Okay. No matter -- no matter what?

21 A I would not be intentionally inaccurate.

22 Q Okay. There was -- you were shown this bottom portion  
23 here where it says, Approximately 8:00 p.m. on 9/16/2008  
24 resident was found on the floor in her apartment. But when  
25 we look up above on the date of occurrence on the report --

26 A Yes.

27 Q -- it looks like you did a little transposition error  
28 there, huh?

1 A On the date of the --

2 Q Date of the incident down here, approximately 8:00  
3 p.m. on --

4 A Oh, yes, it looks like an error.

5 Q Okay. The date of admission was 9/16/08, the date of  
6 occurrence, as you said, up here was 9/22, right?

7 A Correct.

8 Q Okay. You didn't -- you didn't -- you didn't make  
9 that mistake on purpose, I presume?

10 A I can say absolutely not. I would not do that on  
11 purpose.

12 MR. REID: That is all I have. Thank you.

13 THE COURT: Anything else?

14 MR. REID: No.

15 MS. CLEMENT: Your Honor, I would just like to seek to  
16 move in Exhibit Number, um, 117.

17 THE COURT: I'm sorry, what?

18 MS. CLEMENT: Exhibit Number 117 and exhibit number --  
19 we discussed it at the break.

20 MR. REID: Yeah. No objection.

21 THE COURT: To 117?

22 MR. REID: Yes.

23 THE COURT: All right. 117 is admitted.

24 **(Joint Exhibit 117 was admitted into evidence.)**

25 THE COURT: Ladies and gentlemen, if you have any  
26 questions please write them out now for our witness, and,  
27 um, Mr. Taylor will pick them up.

28 Ms. Cordova, we allow our jurors to ask questions if

1 they are confused by anything or they need clarification.

2 THE WITNESS: Okay.

3 THE COURT: They have been a very active jury.

4 Counsel, approach, please.

5 (Sidebar conference was held.)

6 THE COURT: We are going to try to finish with this  
7 witness and get all of your questions answered today so she  
8 doesn't have to come back, so we might go beyond four  
9 o'clock. Okay.

10 We have got a number of questions for you. Um, when I  
11 ask you the question, if you would please turn and respond  
12 to the jury.

13 Ladies and gentlemen, I want to remind you do not  
14 write down your thoughts, what you are thinking about this  
15 case or a particular witness and send it to us because  
16 anything on your pieces of paper I am sharing. Okay. Just  
17 write down your questions and that's it.

18 Do you feel that there were always adequate staff to  
19 meet the needs of all of the residents at all times while  
20 you were at Emerald Hills?

21 THE WITNESS: Looking back in the context of what we  
22 have talked about -- well, I personally in the last couple  
23 of years in deposition and then today, no.

24 THE COURT: Did corporate, meaning Emeritus Corporate,  
25 ever specifically direct you to not report an incident to  
26 the State of California?

27 THE WITNESS: Not that I remember, no.

28 THE COURT: Was any staff member let go or asked to

1 leave for suspected abuse or neglect?

2 THE WITNESS: I have a vague recollection of one  
3 because I -- during the course of deposition I recall a  
4 report made regarding an employee and I do believe that that  
5 employee was terminated, but I just can't remember all of  
6 the specifics of it.

7 THE COURT: Was any staff member let go or asked to  
8 leave for safety concerns?

9 THE WITNESS: I'm sorry, I'm not sure I understand  
10 "safety concerns".

11 THE COURT: That is a legitimate, um, question.

12 Something other than abuse or neglect but for which  
13 the safety and well-being of the residents might have been  
14 compromised if they stayed?

15 THE WITNESS: I'm sorry. I would love to give you a  
16 better answer, but I'm really not sure because I'm not sure  
17 I understand the question. I don't remember -- there is no  
18 scenario that is coming to mind based on the question that  
19 you're asking.

20 THE COURT: Okay. We heard a little bit about lint  
21 traps earlier today.

22 Were the lint traps neglected or over-filled that  
23 caused you concern or was there ever an actual fire?

24 THE WITNESS: There was not, but my concern came from  
25 the building that I had left, Sunrise. Months later or some  
26 time later, I don't remember the exact time frame, I had  
27 heard that there was a fire there and that it was caused by  
28 lint traps.

1           THE COURT: With respect to the daily meetings, um,  
2 with your staff that you talked about, was that something  
3 that you brought to Emerald Hills or was that, um, a  
4 procedure that was in place when you got there?

5           THE WITNESS: Not only was that in place, that's --  
6 that's an industry standard in any building.

7           THE COURT: Were you allowed to make policy, um, for  
8 your facility or was it all directed to you from corporate  
9 headquarters?

10          THE WITNESS: I can't remember a specific case where I  
11 suggested a policy. Um, policies were given to me. If  
12 there was an edit to it or a change to it or something that  
13 needed to be discussed, it was always done in collaboration.  
14 So, in general, policies were created and given to us to  
15 follow.

16          THE COURT: Did you feel that the med techs were not  
17 properly trained for the job?

18          THE WITNESS: At the time I don't remember having a  
19 concern about that. Looking back, I could see where that  
20 would be a concern.

21          THE COURT: Did you feel that the caregivers were not  
22 properly trained?

23          THE WITNESS: I don't remember having a concern about  
24 that. Um, in the process of this, areas have come up that  
25 made me question that.

26          THE COURT: Why do you think -- what do you think was  
27 the primary reason for so many staff leaving Emerald Hills?

28          THE WITNESS: I don't know the reason. The industry

1 in general has a fairly high turnover rate. I don't know if  
2 that is due to, um -- I don't really know why but it's --  
3 it's something that is not uncommon in the industry.

4 THE COURT: How many staff members do you believe are  
5 necessary to adequately staff the overnight shift in the  
6 Memory Care Unit?

7 THE WITNESS: Staffing is a very difficult thing to  
8 speak to in general terms because it is based on not only  
9 number of residents but on the acuity, meaning what's going  
10 on with them and the type of assistance they need. So I --  
11 it's been such a long time since I have been in the  
12 building, I don't remember what it was, um, what I thought  
13 it should be, um, so I -- I don't know that I have a good  
14 answer for you. It's -- it's -- it's a difficult thing to  
15 answer in hindsight.

16 THE COURT: Did you believe that Emeritus provided  
17 good service to its residents?

18 THE WITNESS: I felt that we did, yes.

19 THE COURT: If you personally needed a assisted living  
20 would you have stayed at Emerald Hills?

21 THE WITNESS: This was asked of me if I would have put  
22 a parent there, and I didn't have a concern about  
23 hypothetically my parent being there.

24 THE COURT: No. The question was you personally.

25 THE WITNESS: Hard to picture that. It's a very big  
26 hypothetical, hopefully many years from now, um, but yes.

27 THE COURT: Would you stay, if needed, in Emerald  
28 Hills' Memory Care Unit?



1 THE WITNESS: Yes.

2 THE COURT: In your opinion did you find Mary Kasuba's  
3 request for change to be reasonable?

4 THE WITNESS: I did not, and that's really based on  
5 industry experience of what -- what type of structure an  
6 assisted living is, and what she was asking for is really  
7 not within the structure of assisted living.

8 THE COURT: Um, would you describe Emerald Hills as  
9 like a hotel?

10 THE WITNESS: In some ways yes, depending on, um,  
11 which resident we are talking about. For somebody that was  
12 there not needing, um, personal care assistance and just  
13 needing a, um -- the -- the place to live and the activities  
14 and the meals and the housekeeping, then in that way, yes.

15 THE COURT: Were you ever asked to work within the,  
16 quote, gray areas, closed quote, of Title 22?

17 THE WITNESS: I don't remember a specific instance,  
18 but, yes, there are -- there are gray areas. Um, what --  
19 what I do remember about working within Title 22 is that I  
20 had a very good relationship in -- with the LPA, the  
21 licensing program analyst, from the State, um, and would  
22 very frequently run scenarios by her to get feedback on  
23 whether I was interpreting something correctly and how she  
24 would react were she to come into the building and see a  
25 particular situation.

26 THE COURT: What is a gray area? What does that term  
27 mean to you?

28 THE WITNESS: That means something that is not given

1 a -- a definite instruction on how something should be. Um,  
2 you -- you will do, um -- you will get up and you will step  
3 down these stairs and you will walk to the door versus leave  
4 the room. Simply leave the room leaves a huge gray area of  
5 how exactly to get there. So that -- that gray area without  
6 detail of exactly what to do and how to do it was not  
7 uncommon in Title 22.

8 THE COURT: Um, the jury has heard that you worked for  
9 Emerald Hills for about 18 months. One juror wants to know,  
10 why did you leave?

11 THE WITNESS: So the -- the biggest reason that I left  
12 was that, as you have heard before, my background had been  
13 in Hospice care, um, and I was given the opportunity to go  
14 back to that job and also with the potential opportunity for  
15 advancement with the company. Um, I did know from prior  
16 experience with them that it was fewer hours of work and the  
17 pay was better, and so that is a quality of life decision.  
18 So that was really my biggest, um, impetus to leave.

19 THE COURT: When you -- you were at Emerald Hills did  
20 it ever come to pass that you had to tell a family that  
21 Emerald Hills could no longer provide the services needed  
22 for a higher acuity level of their relative and they would  
23 have to move out?

24 THE WITNESS: Not that I remember. I don't remember a  
25 scenario like that.

26 THE COURT: Um, why did you have Mrs. Kasuba's, um,  
27 e-mail letter on your home computer?

28 THE WITNESS: I can't remember, but that letter came

1 to me when I was not in the building. I was, um, off on  
2 retreat with the other executive directors. So I -- I can't  
3 remember, but maybe to have access to it, um, over a weekend  
4 so that I could read it more clearly.

5 THE COURT: In the stand-up meetings you talked about  
6 earlier today, did you talk about every fall that was  
7 reported?

8 THE WITNESS: You know, I can't say for sure. Um,  
9 that is -- that is part of what we discussed, but it would  
10 be -- it would be wrong to sit here and say, yes, every  
11 single one was discussed. That was the goal of that meeting  
12 was to discuss what had happened since we had last met.

13 THE COURT: Did you report any incidents to the  
14 Seattle corporate headquarters that you believed might  
15 result in lawsuits?

16 THE WITNESS: Um, I don't remember -- I don't remember  
17 thinking that. Um, looking back all of those years I don't  
18 remember thinking, oh, this is going to be a lawsuit and  
19 forwarding it to them. But, um, there were certainly, I'm  
20 sure, some serious cases, um, and it was sent off, but I  
21 don't recall calling it or thinking there is -- there is a  
22 potential lawsuit with this.

23 THE COURT: Did you personally write a new patient  
24 assessment after each reported fall?

25 THE WITNESS: Did I personally? No.

26 THE COURT: Who did?

27 THE WITNESS: Um, it depends on the time frame we are  
28 talking about but -- I'm sorry. It depends on the time

1 frame we are talking about. It may have been, um -- may  
2 have been the facility nurse. It may have been the memory  
3 care director. It may have been another nurse from another  
4 building. Um, so I -- I don't remember in -- in a general  
5 question who did that on every resident or if that was done  
6 on every resident.

7 THE COURT: Did you ever okay med techs to administer  
8 medications to residents at Emerald Hills when a nurse was  
9 not present?

10 THE WITNESS: Could you say that again, please?

11 THE COURT: Did you ever okay med techs to administer  
12 medications to residents at Emerald Hills when a nurse was  
13 not present?

14 THE WITNESS: If I'm hearing that correctly, it's  
15 asking about whether or not I'm allowing somebody to  
16 administer. And what we spoke about earlier was that  
17 administering is different than assisting. So if it was to  
18 administer, no. If it was to assist, which is actually what  
19 the med techs' job there to do is, then yes, and that could  
20 be done without a nurse present in the building.

21 THE COURT: Are you aware if anyone ever assessed  
22 Mrs. Boice's pressure ulcers?

23 THE WITNESS: No.

24 THE COURT: This juror wants to know if you, um, see  
25 any difference between Sunrise Senior Living's approach to  
26 recruiting new residents from Emeritus' approach to  
27 recruiting new residents?

28 THE WITNESS: Hum. That is -- that is a difficult

1 question. It's a good one. It's a difficult one. It's  
2 been a number of years for both and I held different roles  
3 within each. Um, not in that the same group of individuals  
4 and professionals in the community were approached and, um,  
5 the management within a building would reach out to them to  
6 establish relationships. As far as, um -- and that people  
7 would make appointments to come in, um, and have tours and  
8 have lunches and get to know the building.

9 The -- the stand-up meeting in Sunrise was not as  
10 heavily focused on the marketing piece as it was in  
11 Emeritus.

12 THE COURT: Do you feel as a whole that Sunrise Senior  
13 Living was dedicated to the well-being of its residents?

14 THE WITNESS: Yes.

15 THE COURT: Do you feel as a whole that Vitas  
16 Innovative Hospice Care was dedicated to the well-being of  
17 its residents?

18 THE WITNESS: Yes.

19 THE COURT: Do you feel as a whole that Emeritus  
20 Emerald Hills was dedicated to the well-being of its  
21 residents?

22 THE WITNESS: Yes.

23 THE COURT: In your typical work day, how much of your  
24 day was dedicated to sales and marketing?

25 THE WITNESS: Oh, it's hard -- it's hard to answer.  
26 Um, it could be 40 percent, 50 percent. Depends. On any  
27 given day that could change. It could be taken over for the  
28 whole day if -- if there was, um, a marketing tour or a new

1 resident or something going on. But if I had to average  
2 that out, I could say 40 to 50 percent.

3 THE COURT: Have you ever heard the term "heads in  
4 beds"? It's actually a phrase. I'm sorry. Have you ever  
5 heard that phrase at Emeritus?

6 THE WITNESS: No.

7 THE COURT: Did you ever place an ad in a local  
8 newspaper for nurses or caregivers when you were at Emerald  
9 Hills?

10 THE WITNESS: I personally did not place one, but I  
11 was part of having one placed because that was placed  
12 through corporate, um, or through HR, but I don't recall  
13 personally placing the ad.

14 THE COURT: Did corporate tell you to tell Mrs. Kasuba  
15 to not come back to the building or was that your, um,  
16 personal addition to the letter?

17 THE WITNESS: That was not my personal addition to the  
18 letter. That's what I was instructed to instruct.

19 THE COURT: Did you ever learn at any time that med  
20 techs were -- were, in fact, administering medications to  
21 the residents?

22 THE WITNESS: Yes. Um, I don't believe we talked  
23 about it here but I spoke about it in a deposition that it  
24 came to my attention that the med techs were drawing up  
25 insulin and that is actually considered an administration  
26 process, um, and that when I discovered that then systems  
27 were put in place to correct that situation.

28 THE COURT: Did you feel more pressure from Emeritus

1 to fill the beds than -- than when you were at Sunrise  
2 Senior Living?

3 THE WITNESS: Yes. But let me just say, I -- I was --  
4 I did hold a different position in Emeritus than I did in  
5 Sunrise. So it's -- it is hard to compare the two. I don't  
6 know what the person who held my position that entire time,  
7 how -- how he would answer that question, but I personally,  
8 no.

9 THE COURT: Did you believe that one elevator was  
10 adequate to handle, um, evacuating 70 to 80 adults in case  
11 of an emergency?

12 THE WITNESS: No.

13 THE COURT: Um, this juror would like to know how it  
14 would be handled if two or three people in the assisted  
15 living side needed help getting out of bed and help getting  
16 to the dining room when one was on the first floor and  
17 another was on the second or third floor and there was only  
18 one staff person or two staff people?

19 THE WITNESS: I don't know what the staffing was, but  
20 for meal times and getting to the dining room, that was a  
21 process that started very early. Um, it wasn't just ten  
22 minutes before dinner, it started actually quite long  
23 before. Um, it would turn into a bit of a social time there  
24 where residents could have coffee and wait for dinner, but  
25 it started -- it started quite early to allow for time to  
26 get everybody downstairs.

27 THE COURT: There has been some discussion about an  
28 audit that was taken or undertaken after a letter. Could

1 you clarify which letter speared or spurred the audit  
2 happening?

3 THE WITNESS: Sure. It's the letter that was written  
4 by Mary Kasuba who was one of the nurses at the building.  
5 Um, that was a letter that was sent to me. It was  
6 essentially a resignation letter but included other things.  
7 That was also sent to corporate. And shortly thereafter --  
8 and, I'm sorry, I don't remember the exact time frame -- an  
9 audit happened. That audit was something that was a regular  
10 process with Emeritus, but this letter prompted a -- a  
11 quicker, um, event for the audit.

12 THE COURT: Was an audit conducted after the incident  
13 involving the patient who did not get their meds for several  
14 days?

15 THE WITNESS: An audit to what I just spoke to, no.

16 THE COURT: Other than working in the kitchen, which  
17 we heard you testify to when you were short-staffed, did you  
18 ever fill in as a, um, caregiver?

19 THE WITNESS: You know, this was asked of me in  
20 deposition and I couldn't remember a specific instance, but  
21 I can recall being in the Memory Care Neighborhood and doing  
22 activities with residents while the resident assistants  
23 would help and do what they were doing so that I could stay  
24 with other residents. I did help with helping to get  
25 residents to bed, um, get them changed for bed. And I had  
26 helped residents to the bathroom, um, I do remember  
27 specifically from the dining room into the bathroom to help  
28 them during meal time so they didn't need to go back to



1     their room. Um, filling in for housekeeping, that sort of  
2     thing

3             THE COURT: Have you ever, um, assisted with  
4     medications?

5             THE WITNESS: I have not.

6             THE COURT: This juror wants to know why you believe  
7     it took so long for staff to recognize that Mrs. Boice had,  
8     um, ulcers?

9             THE WITNESS: I don't know. I'm sorry, I -- I don't  
10    know if I have an answer for that.

11            THE COURT: Same question with respect to her weight  
12    loss?

13            THE WITNESS: Again, I'm sorry, I don't have an answer  
14    for that. I don't know.

15            THE COURT: Um, clarifying, um, did you -- were you  
16    notified about Joan Boice's move-out?

17            THE WITNESS: I was -- let's see, how should I say  
18    this? I was notified after the fact. I was not notified,  
19    um, at the time or prior, um, and was notified by staff.

20            THE COURT: Why does Emerald Hills continue to charge  
21    a family member when the client has either moved out or  
22    passed away?

23            THE WITNESS: You know, I -- I don't know. I was  
24    thinking the same thing when I read that probably along with  
25    you.

26            THE COURT: Does the staff have some type of  
27    checklist, um, that they fill out or look at every time they  
28    change a resident's Attends or, um, adult diaper, um, or a

1 checklist to look for bed sores?

2 THE WITNESS: You know, I don't remember a specific  
3 checklist that they went through and looked at when they did  
4 that.

5 THE COURT: Why does Emeritus advertise itself as a  
6 social care facility when most of the clients need some form  
7 of health care?

8 THE WITNESS: That is a good question. It advertises  
9 as a social facility because it falls under the regulation  
10 of the Department of Social Services as opposed to the  
11 Department of Health Services which oversees hospitals and  
12 skilled nursing facilities.

13 THE COURT: Isn't it misleading to family members to  
14 emphasize that there will be a nurse available every day  
15 when this is not true?

16 THE WITNESS: It can be unless it's explained  
17 correctly.

18 THE COURT: Isn't it true that because a facility has  
19 a nurse and works with residents who have medication needs  
20 that it is more a facility that provides health care than  
21 social care?

22 THE WITNESS: I can see where it would sound that way,  
23 but, no, it is still not a health care facility because they  
24 are not supposed to be administering the medications. Um,  
25 they are following orders written by a doctor for  
26 medications, um, and assisting with that medication.

27 THE COURT: With all of the 911 calls, the  
28 medications, the changing of diapers, the cleaning of beds

1 that had urine, um, or others, and changing of bandages and  
2 cleaning of bed sores, doesn't that, in fact, imply that  
3 Emerald Hills was really a health care facility?

4 THE WITNESS: Can I hear all of the -- the whole list  
5 again?

6 THE COURT: Can you read that?

7 THE WITNESS: I'm sorry, could I hear all of the list  
8 again?

9 THE COURT: Yes.

10 Go ahead, Brooke, could you read that back, please?

11 (Whereupon the last question was read back as requested.)

12 THE WITNESS: Okay. I can understand why it would  
13 sound that way. The only item in that list, um, that I  
14 would understand to be truly a health care intervention is  
15 the cleaning of a bed sore because how you handle a bed  
16 sore, um, would be determined by the doctor. And in some  
17 cases a bed sore cannot be managed within an assisted  
18 living. And as much care as it sounds, every other thing  
19 that was listed actually falls within a social model of  
20 care.

21 THE COURT: This juror wants to know whether or not it  
22 would be fair to say that, um, in the position you were in  
23 you were over your head from day one with Emeritus?

24 THE WITNESS: I think that's fair to say.

25 THE COURT: With respect to the meeting sheet that we  
26 saw, um, put up on the overhead, would you describe that as  
27 nothing more than a reminder to staff rather than a list of  
28 ongoing problems?

1           THE WITNESS: You know, I can't remember that meeting.  
2       Um, that certainly is what it looked like because meetings  
3       were frequent and common and so a list of reminders is  
4       certainly a possibility. If it was more of a how -- I'm  
5       sorry, how did you word it? Was it a -- could you read the  
6       first part of the question?

7           THE COURT: More -- nothing more than reminders to  
8       staff rather than ongoing problems, the meeting sheet.

9           THE WITNESS: Right. Rather than ongoing problems,  
10      because that spoke to specific interactions that the, um,  
11      care staff may be having with the residents. If that was  
12      more than ongoing reminders, then that would speak to  
13      something more employee-specific that needed to be handled  
14      on a one-on-one basis.

15          THE COURT: Do you believe that all of the California  
16      training requirements for the staff at Emeritus Emerald  
17      Hills were met?

18          THE WITNESS: You know, this was asked of me in  
19      deposition, and I -- I -- I can't remember. I know that we  
20      did a lot of training, um, we did a lot of classroom  
21      training, a lot of small group training, um, but it would be  
22      wrong for me to -- to say yes to something I really can't  
23      remember each and every one that we did.

24          THE COURT: This juror is referencing the circumstance  
25      where the woman did not receive her medications for, um,  
26      several days and died. And the juror wants to know, who do  
27      you believe did not give the woman the medicine that she was  
28      supposed to get?

1           THE WITNESS: Who did not give the resident the  
2 medications that she was supposed to get?

3           THE COURT: Correct.

4           THE WITNESS: Okay. The med tech did not give the  
5 medications, um, and did not notify the nurse that she --  
6 the reason she didn't give the medication is that she was  
7 out of the medication.

8           THE COURT: Was this while Mrs. -- while Mrs. Kasuba  
9 was at the facility?

10          THE WITNESS: Yes.

11          THE COURT: Um, was an investigation conducted as a  
12 result of this woman's, um, death?

13          THE WITNESS: Yes.

14          THE COURT: And what were the results of that  
15 investigation?

16          THE WITNESS: That she had run out of the medication,  
17 um, and there was not a system for catching that she had run  
18 of the medication and getting it sent.

19          THE COURT: Is it unusual for 911 to be called to an  
20 assisted living facility?

21          THE WITNESS: It's really not, um, because an assisted  
22 living facility, not being a medical facility, um, can't  
23 assess the outcome of a fall or an injury, so a 911 call is  
24 not that uncommon.

25          THE COURT: This juror asks you to please explain the  
26 difference between the concepts of assisted living and  
27 nursing care homes and the people each are supposed to  
28 house.

1           THE WITNESS: Assisted living, I think what I said  
2 before is that it's part of the Department of Social  
3 Services, meaning the Department of Social Services oversees  
4 their regulations, and the Department of Health Service  
5 oversees skilled nursing facility.

6           Skilled nursing facility has residents who are  
7 everything from needing a little bit of assistance with, um,  
8 with medications to not responsive and, um, not able to --  
9 to do, um, anything, not awake, not conscious, and that  
10 spans a huge area but that also would be a resident who has  
11 prohibited health conditions under the social service model.  
12 So it would mean something that -- someone that needs a  
13 feeding tube, um, somebody that has, um, a trach, um,  
14 somebody that is continuously getting IV medications.  
15 Somebody that needs that type of care which really requires  
16 a skilled professional to be present at all times to handle  
17 their care.

18           Whereas assisted living is more non medical. And we  
19 have talked about medications and -- and the need to be able  
20 to assist residents but not administer. So assisted living  
21 would be, um, help with activities of daily living, your  
22 bathing and your dressing and your eating, um, things like  
23 that that are really more non medical and non-skilled  
24 professional, um, oversight that you would see in a skilled  
25 nursing facility.

26           THE COURT: Do you consider Mrs. Boice's contract a  
27 standard contract in the industry?

28           THE WITNESS: Yes.

1           THE COURT: The jury was shown sort of a list of, um,  
2 residents' rights as part of that contract. Do you believe  
3 that any of Mrs. Boice's residents' contract rights were  
4 violated?

5           THE WITNESS: You know, I'm sorry, I can't remember  
6 each and every one. They certainly weren't -- if they were,  
7 it was not intended and every effort was made to uphold  
8 them.

9           THE COURT: Is the typical business model for an  
10 executive director of an assisted living facility one  
11 predominantly for sales and marketing and budgeting?

12          THE WITNESS: Yes. There is a little more to it than  
13 that, but the -- the financial oversight, and within  
14 financial oversight is sales and marketing because a huge  
15 portion of your finances are from, um, having residents in  
16 your building.

17          THE COURT: We have heard testimony about a short  
18 roster of persons available to come in as back-up or  
19 fill-ins. Do you believe that the roster of persons  
20 available to come in as back-up created a safety issue for  
21 the residents at Emerald Hills?

22          THE WITNESS: It could have if there were not other  
23 ways to staff a shift. And those shifts were staffed, as we  
24 had discussed earlier, using overtime, which is not ideal,  
25 but it would be put in place to -- to cover, um, an open  
26 shift.

27          THE COURT: Okay. Sitting here now do you have a  
28 recollection as to how many reportable events occurred at

1 Emerald Hills while you were there -- and this juror says,  
2 reported to the department of health -- Department of Social  
3 Services?

4 THE WITNESS: You know, I don't remember. It came up  
5 during my deposition and I can't remember the exact number.  
6 It was over 100, but, I'm sorry, I don't remember the exact  
7 number.

8 THE COURT: Sitting here now, um, do you have any  
9 ethical concerns about Emeritus' care?

10 THE WITNESS: Hum. I don't think I have ethical  
11 concerns. I think that everybody's intent is really to do  
12 the best that they can with what they have. Um, I certainly  
13 know that -- that I and everybody that was working there at  
14 the time I was there were really there to do our very, very  
15 best.

16 Um, in terms of the whole company, it's -- it's hard  
17 to -- it's hard to say what everybody's intent was and  
18 everybody's ethics, but I never had reason to believe that  
19 that ethics weren't in line. Um, I think that, you know,  
20 could things have been done differently and better? Sure.  
21 But I don't think that ethically anybody was doing something  
22 wrong.

23 THE COURT: One of our jurors asked about the  
24 signature line and identification of Kathleen Boice and her,  
25 um, background.

26 Ladies and gentlemen, Ms. Kathleen Boice will be in to  
27 testify -- whoever asked this question -- and that question  
28 will be more appropriately posed to her when she is in.



1 All right. We are at 4:28 and we have yet to do our  
2 hearing this afternoon.

3 Are there follow-up questions?

4 MS. CLEMENT: I think I have maybe one or two.

5 THE COURT: All right. Just one second. All right.  
6 One or two.

7 MS. CLEMENT: Okay.

8 FURTHER RECROSS-EXAMINATION

9 By LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of  
10 the Plaintiffs:

11 Q Do you remember ever filling in as a caregiver in the  
12 Memory Care Unit or anywhere else at, um, Emerald Hills  
13 during Mrs. Boice's time?

14 A You know, I don't remember specifically the time  
15 frame, nor specifically the caregiver. What I do remember  
16 is that if something was needed that I would step in to help  
17 in that fashion, so that could be in a variety of  
18 capacities.

19 Q So, in other words, you never worked an entire shift  
20 as a caregiver?

21 A Correct.

22 Q And, um, let's see. Oh. The med techs administering  
23 medications to the residents, you talked about drawing up  
24 insulin in response to the juror's questions. You never  
25 reported that to the State; true?

26 A I don't remember not reporting that to the State, and  
27 I don't remember seeing -- I don't remember seeing the  
28 report in our deposition, but I don't remember withholding

1 that.

2 Q Question is, you never reported it; true?

3 A I can't answer that. I don't know.

4 MS. CLEMENT: Okay. Thank you.

5 MR. REID: One or two.

6 FURTHER REDIRECT EXAMINATION

7 BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the  
8 Defendants:

9 Q Um, you talked about feeling you were over your head  
10 from the start and you also, in reflecting back, said that,  
11 um, you know, that maybe there -- there wasn't adequate  
12 staff to meet needs. And we have gone through your whole  
13 career there that 18 months. I want to focus on the time  
14 frame when you had a nurse, Peggy Stevenson, and you had  
15 Alicia in the Memory Care Unit.

16 Um, did you have the same feelings at that time or did  
17 you feel like things were under control and -- and care was  
18 being delivered once you had --

19 THE COURT: Mr. Reid --

20 MR. REID: Oh.

21 THE COURT: -- way too complicated and way too long.  
22 Ask a simple direct question.

23 MR. REID: Okay.

24 Q (By MR. REID) Once you had Peggy Stevenson in place  
25 and you had Alicia in memory care, were your -- were your  
26 concerns alleviated in terms of, um, meeting needs of  
27 residents?

28 A Yes.

1 MR. REID: Okay. That is all. Thank you, your Honor.

2 MS. CLEMENT: No questions.

3 THE COURT: Do any of you have any additional  
4 questions? All right.

5 May we excuse this witness?

6 MS. CLEMENT: Yes.

7 MR. REID: Yes, your Honor.

8 THE COURT: Thank you very much. You're excused.

9 Ladies and gentlemen, leave your notebooks on the  
10 chairs. Remember the admonitions. I will see you at nine  
11 o'clock tomorrow morning.

12 THE WITNESS: Thank you for finishing today. I  
13 appreciate it.

14 **(The following proceedings were held in open court, outside**  
15 **the presence of the jury:)**

16 THE COURT: Everyone else, please be seated if you  
17 want to stay.

18 And I'm going to ask the attorney who is here  
19 representing the, um, media request to come on up and grab a  
20 seat at the end of the table.

21 Terrance, let me give you these.

22 All right. My apologies to, um, Counsel for WGBH  
23 Educational and ProPublica. We were going to do this at  
24 4:00, but as you saw, we were trying to finish with our  
25 witness so she didn't have to come back. So thank you for  
26 your patience.

27 Sir, may I have your appearance, please, for the  
28 record?